

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

-----X

UNITED STATES OF AMERICA

Plaintiff,

Criminal Action No. 06-76 (GMS)

v.

CHIAN SPIRIT MARITIME ENTERPRISES, INC.,
VENETICO MARINE S.A., *et al.*

Defendants.

-----X

DEFENDANTS, CHIAN SPIRIT MARITIME ENTERPRISES, INC.
AND VENETICO MARINE, S.A.'s, OBJECTIONS AND REQUEST FOR
PRETRIAL RULINGS AS TO THE ADMISSIBILITY OF THE FOLLOWING
PORTIONS OF THE RULE 15 DEPOSITION TESTIMONY OF
EDGAR VILLANO.

COME NOW, moving defendants, Venetico Marine, S.A. ("Venetico") and Chian Spirit Maritime Enterprises, Inc. ("CSME") (collectively, "Moving Defendants"), who respectfully request that this Honorable Court consider and rule, before the voir dire of the jury panel, and out of the presence and hearing of the jury panel, as to the admissibility of the following Rule 15 deposition testimony by Edgar Villano, which the Government has stated it will seek to introduce at trial.¹

Specifically, Moving Defendants object to the admissibility of the following deposition testimony by Edgar Villano, the "Second Engineer" on board the M/V IRENE

¹ For the Court's ready reference, Moving Defendants advise that in order to facilitate the deposition process, counsel for all parties agreed to expressly reserve making objections during the examination.

E.M., on the following grounds. For the Court's ready reference, a correct and true copy of the transcript of the Rule 15 deposition of Mr. Conge, conducted at the office of the United States Attorney, 700 Nemours Building, 1007 Orange Street, Wilmington, Delaware, on Monday, July 17, 2006, is attached hereto as Exhibit "A".

Edgar Villano (Second Engineer)

Moving Defendants object to the introduction of the following testimony, as it lacks sufficient foundation; calls for speculation; calls for strictly inadmissible hearsay responses; assumes facts not in evidence and, if admitted, would be unfairly prejudicial, confusing and otherwise misleading to the trier of fact:

Page 9/lines 6 -20 (relevance);
Page 16/lines 4 – 15 (leading; lacks foundation; calls for speculation);
Page 21/lines 14 -21 (leading);
Page 22/lines 4 – 16 (hearsay; leading);
Page 23/line 7 - Page 24/line 9 (impermissible use of prior Grand Jury testimony; improper impeachment; leading);
Page 24/line 16-19 (hearsay);
Page 25/line 19 – Page 26/line 12; (hearsay);
Four page statement marked for identification as "Defense Exhibit 13" (privileged document prepared at request of counsel)²; and
Page 30/line 4 – Page 33/line 8 (leading; impermissible use of prior Grand Jury testimony; improper impeachment);

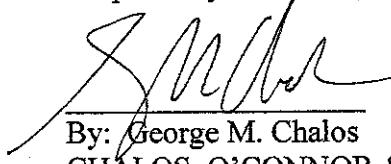
CONCLUSION

For the reasons more fully set forth above, Moving Defendants respectfully request that this Honorable Court issue an Order:

² See also, Exhibit "A," Transcript Page 94/lines 7 -22; See also, Transcript Page 115/line 18 – Page 117/line 16.

- (1) Granting Moving Defendants' application to exclude, either in its entirety or to the extent the Court finds just and proper, the foregoing objectionable portions of the Rule 15 deposition testimony and redact CSME Exhibit 13 for the reasons more fully set forth above; and
- (2) For any and all such other and further relief which the Court deems to be just and proper under the specific circumstances of this matter.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I do hereby certify that, on this 6th day of November 2006, I have served a copy of the foregoing pleading on counsel for all parties to this proceeding, by Email and by mailing the same by United States mail, properly addressed, and first-class postage prepaid to the following:

United States Department of Justice
U.S. Attorney's Office
Nemours Building
1007 N. Orange Street, Suite 700
Wilmington, Delaware 19801
Attn: Edmond Falgowski, Esq.

United States Department of Justice
Environmental Crimes Section
P.O. Box 23985
L'Enfant Plaza Street
Washington, D.C. 20026
Attn: Gregory Linsin, Esq.
Jeffrey Phillips, Esq.
Tracy Katz, Esq.

Respectfully submitted,

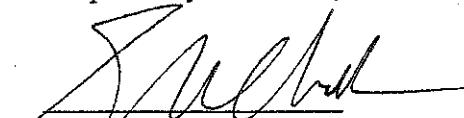

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EXHIBIT A

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATE OF AMERICA, :
Plaintiff, : No.
vs. : 1:06-CR-00076-GMS-2
CHIAN SPIRIT MARITIME :
ENTERPRISES, INC., VENETICO :
MARINE S.A., IRENE E/M, :
EVANGELOS MADIAS, CHRISTOS :
PAGONES, ADRIEN DRAGOMIR, :
Defendants. :

Videotaped deposition of EDGAR VILLANO, taken pursuant to notice before Gail Ingram Verbanos, CSR, RMR, in the offices of United States Department of Justice, 700 Nemours Building, 1007 Orange Street, Wilmington, Delaware, on Monday, July 17, 2006, beginning at approximately 12:06 p.m.

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2 (Pages 2 to 5)

Page 2	Page 4
1 APPEARANCES: 2 MARK W. KOTILA, ESQ. 3 JEFFREY L. PHILLIPS, ESQ. United States Department of Justice Environmental Crimes Section P.O. Box 23985 - L'Enfant Plaza Washington, DC 20026-3985 Attorneys for Plaintiff GEORGE M. CHALOS, ESQ. FOWLER, RODRIGUEZ & CHALOS 366 Main Street Port Washington, NY 11050 Attorney for Defendants Chian Spirit and Venetico Marine CARL R. WOODWARD, III, ESQ. CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI, STEWART & OLSTEIN 5 Becker Farm Road Roseland, NJ 07068-1739 Attorney for Defendant Dragomir ALSO PRESENT: Chris Weiss, Videographer Chris Masaoy, Tagalog Interpreter Adrien Dragomir Liviu-Lee Roth Brent McKnight Jason F. Burgess	1 Enterprises. 2 MR. WOODWARD: And Carl Woodward on 3 behalf of Adrien Dragomir. 4 MR. TWERSKY: Michael Twersky on 5 behalf of the witness. 6 THE VIDEOGRAPHER: Will the court 7 reporter please administer the oath. 9 (CHRIS MASAOAY was previously sworn 10 in as Tagalog-English interpreter.) 12 EDGAR VILLANO, having first been 13 duly sworn through the interpreter according to law, 14 was examined and testified as follows: 16 DIRECT EXAMINATION 17 BY MR. KOTILA: 18 Q Good afternoon, Mr. Villano. How are 19 you? 20 A I'm okay, sir. 21 Q My name is Mark Kotila, and I'm here on 22 behalf of the United States. 23 A Yes. 24 Q And we have spoken in the past; correct?
Page 3	Page 5
1 THE VIDEOGRAPHER: This is Chris 2 Weiss, the videographer, and the court reporter today 3 is Gail Verbano. We are both here from the firm of 4 Corbett & Wilcox, located at 230 North Market Street 5 Wilmington, Delaware. 6 The time is 2:06 on Monday 7 July 17th, 2006. We are documenting the videotaped 8 deposition of Edgar Villano for the plaintiff in the 9 matter of United States of America versus Chian 10 Spirit Maritime Enterprises, Inc., Venetico Marine, 11 Irene E.M., Evangelos Madias, Christos Pagones, 12 Adrien Dragomir, in the United States District Court, 13 District of Delaware. 14 We are at the location of the 15 United States Attorney's office, Nemours Building, 16 1007 North Orange Street, Suite 700, Wilmington, 17 Delaware. 18 Will the attorneys please state 19 their appearance for the record. 20 MR. KOTILA: Good afternoon. My name is a Mark Kotila on behalf of the United States. 22 I should correct, it's actually 12:06. 23 MR. CHALOS: George Chalos on 24 behalf of Venetico Marine and Chian Spirit Maritime	1 A Yes, sir. 2 Q You testified previously in this matter? 3 A Yes, sir. 4 Q And we spoke -- I'm not sure exact times, 5 maybe once or twice -- in the United States 6 Attorney's office? 7 A Yes, sir. 8 Q And then, correct, last week we spoke in 9 your attorney's office, Mr. Twersky's office, 10 briefly? 11 A Yes, sir. 12 Q All right. Where do you currently 13 reside? 14 A At the Doubletree Hotel. 15 Q Where are you from? What country? 16 A Philippines. 17 Q And what is your address there? 18 A 4649 Pinagbuklod Street, Santa Mesa, 19 Manila. 20 Q Thank you. 21 Could you tell us, what is your 22 occupation? 23 A Second engineer. 24 Q Now, how do you become a second engineer?

Edgar Villano

3 (Pages 6 to 9)

Page 6	Page 8
<p>1 A You need to take a board exam from the 2 PLC, Philippine Regulation Commission. 3 Q How much basic schooling do you have? 4 A Two years. 5 Q Any college? 6 A College. 7 Q Degree? 8 A Yes. 9 Q Four-year degree? 10 A Two-year degree. Two years apprentice, 11 and then you can take as a fourth engineer. 12 Q And this is all in the shipping industry? 13 A Yes, sir. 14 Q What kind of training have you had in 15 addition to school? 16 A There is a lot. I cannot tell you, sir. 17 Q Give us a little summary, some of your 18 courses you've taken. 19 A MARPOL 1 and 2. 20 Q What did you learn in MARPOL 1 and 21 MARPOL 2? 22 A That it's illegal to dispose overboard 23 any oil. 24 Q Do you learn in MARPOL 1 and MARPOL 2 how</p>	<p>1 A Yes, sir. 2 Q Describe the Irene for us -- hold on 3 before you do. Let me withdraw that. 4 What was the date that you got on 5 board the vessel? 6 A November 17, 2005. 7 Q Could you just describe briefly the 8 vessel. What was it towing or pulling or carrying 9 what kind of cargo, that kind of thing. 10 A It's a bulk general cargo ship, sir. 11 Q How many people would be under your 12 supervision? 13 A Seven, sir. 14 Q Who would they be, what titles? 15 A The third engineer, the electrician, the 16 fourth engineer, and the three oiler and a wiper -- 17 eight, sir. Eight. 18 Q When you're hired aboard a vessel, you're 19 hired under a contract; correct? 20 A Yes, sir. 21 Q Who was the contract with? 22 MR. WOODWARD: Objection. 23 BY MR. KOTILA: 24 Q Who was the contract with? You can</p>
Page 7	Page 9
<p>1 to handle bilge waste and oil sludge and things like 2 that? 3 A They did not teach us how to operate it. 4 Q Okay. You just know whether it's right 5 or wrong? 6 A Yes, sir. 7 Q When were you hired to work aboard the 8 M.V. Irene ? 9 A Boarded, sir? 10 Q When were you hired to work on that 11 vessel? 12 A In Manila. 13 Q Okay. Tell us how the job comes to you. 14 A I went to apply. 15 Q With whom? 16 A At the crewing agency. 17 Q In the Philippines? 18 A Yes, sir. 19 Q And how did you get out to the vessel? 20 A Through the airplane. 21 Q Okay. Where did you meet up with the 22 vessel, the Irene? What country? 23 A In Brazil. 24 Q Do you recall the date?</p>	<p>1 answer the question. 2 A With a crewing agency. 3 Q Okay. Aboard a vessel, who do you take 4 your orders from? 5 A The chief engineer. 6 Q Do you see the chief engineer in this 7 room today? 8 A Yes, sir. 9 Q And point him out for us and tell us what 10 his name is. 11 A There he is. 12 Q The gentleman wearing the jeans vest? 13 A Yes, sir. 14 Q Do you know his name? Go ahead. 15 A Adrien, sir. 16 Q Do you know his last name? 17 A Dragomir. 18 MR. KOTILA: Well, for the record, 19 the witness has identified the defendant, Adrien 20 Dragomir. 21 BY MR. KOTILA: 22 Q When you got on board the vessel 23 November 17th, 2005, in Brazil, tell us what you did 24 once you got on board.</p>

4 (Pages 10 to 13)

Page 10	Page 12
1 A Of course I reported to the chief 2 engineer. 3 Q Tell us what some of your duties were. 4 What were the actions you took when you got on board? 5 A I'm the one that collects the job order 6 from him every day in the engine room. 7 Q Now, you speak Filipino? 8 A Yes, sir. 9 Q As a first language? 10 A Yes, sir. 11 Q And -- but do you speak English? 12 A Yes, sir. 13 Q Did you ever take any training or 14 education in English? 15 A Yes, sir. 16 Q So you took courses of the language -- 17 English language? 18 A Since the elementary school until 19 college. 20 Q So you speak English pretty well? 21 A Yes, sir. 22 Q What language did you communicate with 23 the chief engineer? 24 A In English.	1 A The next day. 2 Q Uh-huh. What's the purpose of the oily 3 water separator? 4 A To separate the oil and the water. 5 Q Does anything go overboard? 6 A Through the separator, sir? 7 Q Yes. 8 A Are we talking about a testing process? 9 Q Yes, when you test it. How is it 10 supposed to work? 11 A We did not open the overboard, only the 12 testing line. 13 Q Tell us how you tested it. 14 A When I tested it, I was with the 15 electrician. We tried to run it. And so he showed 16 me where the power sources were, and so we made it 17 run. It was running, but it did not stop on the 18 proper reading, ppm. 19 Q What is the proper ppm? 20 A 15 ppm automatic stop. 21 Q When did it stop, though? 22 A After 15 ppm. 23 Q About how much after; do you remember? 24 A About 38, going up. More than 40.
Page 11	Page 13
1 Q Okay. Tell us about the oily water 2 separator aboard the Irene. 3 MR. CHALOS: Objection. 4 THE WITNESS: When I first boarded, 5 I asked the chief engineer if the oily water 6 separator was working. 7 BY MR. KOTILA: 8 Q What did he say? 9 A He said yes. 10 Q What did you do next? 11 A I asked him. 12 Q Go ahead. 13 A I said to him, "Did you try it?" 14 Q And what did he say? 15 A He said yes. 16 Q And what happened after that? 17 A In my particular duty, in my duty at 18 nighttime, I tried to make it run. 19 Q Tell us what you did to try to make it 20 run. 21 A I looked for the power source, and I 22 looked at the valves together with the manual. But I 23 was not able to make it work that evening. 24 Q Did it ever work when you were on board?	1 Q Did any part of the oily water separator 2 work? 3 MR. CHALOS: Objection; asked and 4 answered. 5 BY MR. KOTILA: 6 Q Did the alarm work on it? 7 A Yes, sir. 8 Q And why is that? 9 A When it stops, it makes an alarm. 10 Q Did you see the electrician do anything 11 with the alarm? 12 A I didn't see anything. 13 Q Okay. Did the alarm have to be fixed; do 14 you know? 15 A Perhaps not. It was running, the alarm. 16 Q It was sounding, you mean? 17 A Yes, sir. 18 Q Is there an overboard discharge connected 19 to the oily water separator? 20 A Yes, there is. 21 Q Is there a lock on it? Can it be locked? 22 A Yes, sir. 23 Q And when you were testing it, was it 24 locked?

Page 14	Page 16
<p>1 A Yes, sir.</p> <p>2 Q Was it ever unlocked during the time you 3 were on the ship?</p> <p>4 A Sometimes.</p> <p>5 Q Was the oily water separator ever used to 6 discharge any water into the ocean?</p> <p>7 A No, sir.</p> <p>8 Q Never while you were on board?</p> <p>9 MR. WOODWARD: Objection; leading.</p> <p>10 THE WITNESS: No, sir.</p> <p>11 BY MR. KOTILA:</p> <p>12 Q On your trip from Brazil to the United 13 States, what if anything was discharged overboard?</p> <p>14 MR. CHALOS: Objection.</p> <p>15 MR. WOODWARD: Objection.</p> <p>16 BY MR. KOTILA:</p> <p>17 Q Answer the question.</p> <p>18 A The bilges and the sludges.</p> <p>19 Q How were these items discharged 20 overboard?</p> <p>21 A Going through a magic pipe.</p> <p>22 Q Did you do this?</p> <p>23 A We were the ones that attached it.</p> <p>24 Q Who is "we"?</p>	<p>1 A He told me verbally, direct.</p> <p>2 Q In what language?</p> <p>3 A In English.</p> <p>4 Q How else were you told, if at all?</p> <p>5 MR. WOODWARD: Objection.</p> <p>6 THE WITNESS: He also wrote it in a 7 logbook with a red ball pen.</p> <p>8 BY MR. KOTILA:</p> <p>9 Q What did he write in the book?</p> <p>10 A "Out all engine room bilges."</p> <p>11 Q In red ink?</p> <p>12 A Yes, sir.</p> <p>13 Q And what did you take that to mean?</p> <p>14 A Before I read it, he told me in person.</p> <p>15 So I know what it meant.</p> <p>16 Q What did he say in person? Exact words, 17 if you can recall.</p> <p>18 A All he told me was "Use the magic pipe 19 when the levels of the bilges are high. We should go 20 ahead and dispose of it before we arrive in the 21 United States."</p> <p>22 Q You knew you were coming to the United 23 States as soon as you got on board?</p> <p>24 A When I arrived there, I knew that it was.</p>
Page 15	Page 17
<p>1 A Me and Robert were the ones that attached 2 it.</p> <p>3 Q Robert Damasing?</p> <p>4 A Yes, sir.</p> <p>5 Q Why did you do this?</p> <p>6 A We were asked by the chief engineer.</p> <p>7 Q Mr. Dragomir?</p> <p>8 A Yes, sir.</p> <p>9 Q What did he ask you to do?</p> <p>10 A That when the bilges are high and the 11 sludge are high, that we should just go ahead and 12 pump it overboard through the magic pipe.</p> <p>13 Q Do you recall when is the first time that 14 the chief engineer told you to do this?</p> <p>15 A I don't remember exactly what day that 16 was.</p> <p>17 Q You got on board November 17th.</p> <p>18 A Yes, sir.</p> <p>19 Q Were you told that by the chief engineer 20 a few days later?</p> <p>21 MR. WOODWARD: Objection; leading.</p> <p>22 THE WITNESS: Yes, sir.</p> <p>23 BY MR. KOTILA:</p> <p>24 Q How were you told?</p>	<p>1 Q Arrived where? In Brazil?</p> <p>2 A Yes, sir.</p> <p>3 Q How many times was it written in the 4 logbook to discharge?</p> <p>5 A Only one time, sir.</p> <p>6 Q Was this a standing order?</p> <p>7 MR. CHALOS: Objection.</p> <p>8 MR. WOODWARD: Leading.</p> <p>9 THE WITNESS: After that he no 10 longer wrote it down. But then he would also talk to 11 me.</p> <p>12 BY MR. KOTILA:</p> <p>13 Q And say what? What did he say?</p> <p>14 A He would tell me that we should go ahead 15 and pump it out.</p> <p>16 Q How many times in the voyage, from 17 November 17th through the time you arrived in the 18 U.S. in December -- if you recall, how many times did 19 he tell you to pump overboard?</p> <p>20 A I don't remember exactly, sir.</p> <p>21 Q More than one?</p> <p>22 A Yes, sir.</p> <p>23 Q More than five times?</p> <p>24 A I don't know, sir.</p>

6 (Pages 18 to 21)

Page 18	Page 20
1 Q But multiple times? 2 MR. CHALOS: Objection. 3 THE WITNESS: Yes, sir. 4 BY MR. KOTILA: 5 Q How did you know what to do? 6 A For example, what? 7 Q Well, did he tell you to use the magic 8 pipe? 9 A Yes, sir. 10 Q He used those words, "magic pipe?" 11 A Yes, sir. 12 Q Take a look to your right. That's 13 Government's Exhibit No. 2, I believe. 14 MR. PHILLIPS: It is. 15 BY MR. KOTILA: 16 Q Mr. Villano, do you recognize that? 17 A Yes, sir. 18 Q What do you recognize that piping to be? 19 A That's what we would use. 20 Q How do you know those -- are they the 21 exact items, if you know? You can get up and take a 22 look at them, if you want. 23 A Yes. 24 Q Those are the items, the exact two pipes?	1 A When we attached this, there was already 2 a flange -- 3 MR. KOTILA: Hold on a second. 4 MR. PHILLIPS: Government 3. 5 BY MR. KOTILA: 6 Q Let's take a look at Government 3. Do 7 you see it down there? 8 A Yes, sir. 9 Q Do you recognize that item? 10 A Yes, sir. 11 Q What do you recognize it to be? 12 A That's what we connect to the line from 13 the bilge pump going to overboard. 14 Q And how did the material go from the -- 15 from the bilge well or bilge tank? 16 A We attached it. A flange was attached, 17 and then attached to the bilge pump -- after the 18 bilge pump. 19 Q How did the material, the oily waste, go 20 from the tanks out oversea? How did it get pumped? 21 A There's a suction from the bilge pump. 22 Q Okay. When did you pump, day or night? 23 MR. CHALOS: Objection. He never 24 said he pumped.
Page 19	Page 21
1 A Yes, sir. 2 Q How can you tell? 3 A Because I were the one that put it 4 together. 5 Q One -- how many times did you put it 6 together? 7 A Only once. 8 Q Did the pipes stay connected to the 9 overboard from the tanks the entire time you were 10 there, from November to December? 11 A Yes. It was taken out before we arrived. 12 Q Who took it out? 13 A I don't remember who took it out. 14 Q Do you know why it was taken out? 15 A Yes, sir. 16 Q Why? 17 A It's against the law. 18 Q And you knew that from taking the MARPOL 19 courses; right? 20 A Yes, sir. 21 Q Now, you say you connected the pipe? 22 A There were two of us, with Robert. 23 Q Walk us through it. What did you 24 connect, what to what? What tank to what?	1 THE WITNESS: At nighttime. 2 BY MR. KOTILA: 3 Q Did you do the pumping or did you order 4 it to be pumped? 5 A I make the order. 6 Q Order to whom? 7 A The fourth engineer, the third engineer. 8 Q When did you order to be pumped, day or 9 night? 10 MR. CHALOS: Objection. 11 BY MR. KOTILA: 12 Q You can answer. 13 A Two days after we left Brazil. 14 Q But at nighttime you ordered the pump? 15 MR. CHALOS: Objection. 16 THE WITNESS: Yes, sir. 17 BY MR. KOTILA: 18 Q Why at night? 19 A Because in the daytime they would see it. 20 Q Who would see it? 21 A The authorities. 22 Q Now, you arrived in the United States 23 around December 4th; do you recall? 24 A Yes, sir.

Page 22	Page 24
<p>1 Q And the Coast Guard got on board the 2 vessel?</p> <p>3 A Yes, sir.</p> <p>4 Q And did you overhear the chief engineer 5 speaking with the Coast Guard --</p> <p>6 A Yes, sir.</p> <p>7 Q -- about the oily water separator?</p> <p>8 A Yes.</p> <p>9 Q What did you hear him tell the Coast 10 Guard?</p> <p>11 A On the first day, he said that it was 12 working.</p> <p>13 Q Was that true?</p> <p>14 A No, sir.</p> <p>15 Q When you were discharging or your crew 16 members were discharging overboard, did you ever go 17 back to the chief engineer and tell him this was 18 wrong to do?</p> <p>19 A No, sir.</p> <p>20 Q Do you remember whether you spoke to him 21 about that or not?</p> <p>22 MR. CHALOS: Objection.</p> <p>23 MR. WOODWARD: Objection; leading.</p> <p>24 It's asked and answered.</p>	<p>1 conversation with the chief engineer.</p> <p>2 MR. CHALOS: Objection.</p> <p>3 THE WITNESS: I told him that --</p> <p>4 that it's not correct to be pumping out.</p> <p>5 BY MR. KOTILA:</p> <p>6 Q What did he say to you?</p> <p>7 A There was nothing I could do.</p> <p>8 Q The chief said that?</p> <p>9 A Yes.</p> <p>10 Q Now let's talk about once you reached the 11 United States; you were here. And you're on board 12 December '05; correct?</p> <p>13 Did you meet with a company 14 representative named Christos?</p> <p>15 A Yes, sir.</p> <p>16 Q And who was he?</p> <p>17 A They said that he was the superintendent.</p> <p>18 Q For the company?</p> <p>19 A Yes, sir.</p> <p>20 Q How did he come on board the vessel; do 21 you know?</p> <p>22 A I don't know, because when he arrived, he 23 just called me.</p> <p>24 Q He called you personally?</p>
Page 23	Page 25
<p>1 THE WITNESS: About what?</p> <p>2 BY MR. KOTILA:</p> <p>3 Q About whether it was right or wrong to 4 discharge overboard.</p> <p>5 A All he told me was, "Pump out. Go ahead 6 and pump out." He didn't say any other thing.</p> <p>7 Q Okay. Well, let me remind you, you 8 testified back on January 12th in a prior proceeding 9 in this matter --</p> <p>10 MR. WOODWARD: Objection. You 11 can't rehab your own witness.</p> <p>12 BY MR. KOTILA:</p> <p>13 Q -- and you told the chief engineer 14 this --</p> <p>15 MR. CHALOS: Objection.</p> <p>16 MR. WOODWARD: Can't impeach with 17 prior inconsistent statements.</p> <p>18 BY MR. KOTILA:</p> <p>19 Q You told the chief engineer it was wrong 20 to discharge bilge overboard.</p> <p>21 "Answer: Yes."</p> <p>22 Do you recall that?</p> <p>23 A Now I remember.</p> <p>24 Q Okay. Now you remember. Tell us your</p>	<p>1 A Somebody called me and asked me to go 2 over there, the captain's office.</p> <p>3 Q And did you have a conversation with this 4 Mr. Christos?</p> <p>5 A Yes, sir.</p> <p>6 Q What did he say to you?</p> <p>7 A He asked me -- he asked me if I would 8 tell him -- tell him what happened between Brazil and 9 the United States.</p> <p>10 Q And did you do that?</p> <p>11 A Yes, sir.</p> <p>12 Q And what did he say to you?</p> <p>13 A That we need to take a statement as to 14 what had happened, starting Brazil, going to the 15 United States, and that we would hand it over to the 16 attorneys.</p> <p>17 Q Did you make that statement?</p> <p>18 A Yes, sir.</p> <p>19 Q I'll show you Defense Exhibit 14, 20 four-page statement.</p> <p>21 A Yes, sir.</p> <p>22 Q Do you recognize that statement?</p> <p>23 A Yes, sir.</p> <p>24 Q And you signed it on the back on the last</p>

8 (Pages 26 to 29)

Page 26	Page 28
1 page?	1 BY MR. KOTILA: 2 Q That you recall.
2 A Yes, sir.	3 A I'm asking you, who called me?
3 Q Did you write that statement?	4 Q Were you called by an oiler --
4 A Yes. I was the one that made it.	5 MR. WOODWARD: Objection; leading.
5 Q All four pages?	6 BY MR. KOTILA:
6 A The last page was made by the fourth	7 Q -- to go up to the captain's office?
7 engineer.	8 MR. CHALOS: Objection.
8 Q What's the fourth engineer's name?	9 THE WITNESS: We were already in
9 A Bryan Espina.	10 Camden at that time.
10 Q Okay. And you read it, of course?	11 BY MR. KOTILA:
11 A Yes, sir, because I was the one that made	12 Q Okay. Were you called to a meeting with
12 the rough draft.	13 the owner?
13 Q Now, you made this statement. And did	14 A Yes, sir.
14 you have -- did you give it to Christos?	15 Q Tell us about that.
15 A Yes, sir.	16 A That day -- that first day that they
16 Q Now, did Christos talk to you further	17 arrived.
17 about the incident aboard the boat afterwards?	18 Q Okay.
18 A He spoke to me many times.	19 A He said to me we could not change the
19 Q What did he say afterwards?	20 statement. But then on the next day, he said that we
20 A That we should change the statement.	21 need to change the statement, because if not, you
21 Q When was the first time he told you that?	22 would go to jail.
22 MR. WOODWARD: Objection.	23 Q The first day he said, You can't do
23 THE WITNESS: I don't remember any	24 anything today? Is that what he said?
24 more, sir.	
Page 27	Page 29
1 BY MR. KOTILA: 2 Q Well, tell us what he told you then.	1 A Yes, sir.
3 A He told me that I should change the	2 Q What did that mean; do you know?
4 statement -- we should change the statement, because	3 MR. CHALOS: Objection.
5 if we don't, we would go to jail.	4 THE WITNESS: He said, "Whatever it
6 Q Christos said this?	5 is that you have there, just leave it."
7 A Yes, sir.	6 BY MR. KOTILA:
8 Q Did he say how you should change the	7 Q And that's all they said that day?
9 statement?	8 A Because they were having a meeting. And
10 A Yes, sir.	9 that's what they told me.
11 Q Tell us.	10 Q What was the owner's name?
12 A He told us that we just made a mistake or	11 A Madias.
13 we are just afraid.	12 Q Madias?
14 Q To say that you were just afraid?	13 A Yes.
15 A Yes, sir.	14 Q Now, you say the next day he spoke to you
16 Q Now, on around December 5th, you're here	15 again?
17 in the U.S. still. Did there come a time that you	16 A Yes, sir.
18 were called to the captain's office? Do you recall	17 Q What did he tell you the next day?
19 that?	18 A That he said that, Tell your other
20 MR. CHALOS: Objection.	19 coworkers that we need to change the statement,
21 THE WITNESS: December 5.	20 because if not, all of you will go to jail.
22 BY MR. KOTILA:	21 Q What did you say when he told you that?
23 Q What happened that day? Tell us.	22 A I told him that, "Sir, what you're asking
24 MR. CHALOS: Objection.	23 us is complicated."
	24 Q And what did he say?

Page 30	Page 32
<p>1 A He just said that that's the help 2 that you can provide. That's the help that I could 3 provide.</p> <p>4 Q Did the owner say anything further, like 5 how to change your statement?</p> <p>6 MR. CHALOS: Objection.</p> <p>7 THE WITNESS: "Just tell them that 8 you made a mistake. Just change it, change the 9 statement." There was nothing else.</p> <p>10 BY MR. KOTILA:</p> <p>11 Q Did he say to tell the Coast Guard that 12 you felt pressured by the Coast Guard?</p> <p>13 MR. CHALOS: Objection; leading.</p> <p>14 THE WITNESS: Christos was the one 15 that said something like that.</p> <p>16 BY MR. KOTILA:</p> <p>17 Q All right. Are you sure it's not Madias?</p> <p>18 MR. WOODWARD: Objection; leading.</p> <p>19 MR. CHALOS: Objection.</p> <p>20 THE WITNESS: Yes, sir.</p> <p>21 BY MR. KOTILA:</p> <p>22 Q Well, do you remember, or you're not 23 sure?</p> <p>24 A I'm not sure. I don't remember.</p>	<p>1 you to change your story?" 2 "Answer: No, sir. 3 "Question: Just the owner?" 4 MR. WOODWARD: Hold it, hold it, 5 hold it.</p> <p>6 MR. KOTILA: You on page 15? 7 MR. TWERSKY: It's the second day, 8 Carl.</p> <p>9 MR. KOTILA: There were two. You 10 know, let me make this easy, if we could. I have -- 11 let me give it to him, because he can read; right? 12 With the help of the interpreter 13 just read this page quickly. 15 to the top of 16.</p> <p>14 THE INTERPRETER: You want him to 15 go to the next page?</p> <p>16 BY MR. KOTILA:</p> <p>17 Q Just the top of Page 16, please.</p> <p>18 A Yes. Yes.</p> <p>19 Q Okay. Mr. Villano, do you recall giving 20 that testimony?</p> <p>21 A Yes.</p> <p>22 Q So what did the owner tell you to say?</p> <p>23 MR. CHALOS: Objection.</p> <p>24 THE WITNESS: Just like what he</p>
Page 31	Page 33
<p>1 Q Let me see if I can refresh your 2 recollection.</p> <p>3 MR. CHALOS: You can't rehabilitate 4 your own witness.</p> <p>5 MR. KOTILA: Sure you can. Refresh 6 his recollection.</p> <p>7 MR. CHALOS: Well, he says he 8 doesn't remember.</p> <p>9 MR. KOTILA: That's why I can 10 refresh his recollection.</p> <p>11 MR. CHALOS: But he didn't say 12 that. He said it was Christos.</p> <p>13 BY MR. KOTILA:</p> <p>14 Q Do you recall also testifying in a prior 15 proceeding in this matter on February 2nd, 2006 16 correct?</p> <p>17 A Yes.</p> <p>18 Q Do you recall the question --</p> <p>19 MR. WOODWARD: Could we have a 20 page, please.</p> <p>21 BY MR. KOTILA:</p> <p>22 Q Page 15, on February 6th. All right. 23 Let's -- I'm going to start at the top. 24 "Question: Did the captain ever ask</p>	<p>1 said: To change the statement, because you were just 2 pressured and afraid of the Coast Guard, and you're 3 afraid.</p> <p>4 BY MR. KOTILA:</p> <p>5 Q Did --</p> <p>6 MR. WOODWARD: Objection. Go 7 ahead.</p> <p>8 BY MR. KOTILA:</p> <p>9 Q Did Mr. Madias -- when you were leaving 10 the boat to stay in the United States, did 11 Mr. Christos say to tell the truth?</p> <p>12 A Yes, sir.</p> <p>13 Q Did Mr. Madias say that too?</p> <p>14 A No, sir.</p> <p>15 Q He never did?</p> <p>16 A No, sir.</p> <p>17 Q The engine logbook you described 18 earlier --</p> <p>19 MR. WOODWARD: Objection; no 20 foundation.</p> <p>21 MR. CHALOS: He never described the 22 book. Wrong guy.</p> <p>23 MR. KOTILA: Huh?</p> <p>24 MR. CHALOS: Wrong guy. He never</p>

10 (Pages 34 to 37)

Page 34	Page 36
1 described the book.	1 sludge tank -- so that we could reach -- so that we
2 BY MR. KOTILA:	2 could reach the declared level.
3 Q When you received orders from the chief	3 Q Declared where?
4 engineer to pump the bilges, did you receive that	4 A On the Oil Record Book of his.
5 order in writing too?	5 Q This record book?
6 MR. CHALOS: Objection.	6 A I don't know.
7 MR. KOTILA: Sure he did.	7 Q Who ordered you to do that?
8 THE WITNESS: Sometimes not.	8 A The chief engineer.
9 BY MR. KOTILA:	9 Q Is that a proper practice, pursuant to
10 Q But you did receive that one time?	10 your training and education in MARPOL?
11 A Yes, sir.	11 MR. CHALOS: Objection.
12 MR. CHALOS: Objection.	12 THE WITNESS: No, sir.
13 BY MR. KOTILA:	13 BY MR. KOTILA:
14 Q And what kind of -- how in writing? What	14 Q Why not?
15 kind of book?	15 A That's against the law.
16 A Engine logbook.	16 Q I have no further questions -- hold on.
17 Q All right. When was the last time you	17 When did you do this? When did you
18 saw that engine logbook?	18 give the order to fill those tanks?
19 A Before we got off the ship, I saw it.	19 MR. CHALOS: Objection; no
20 Q Where did you see it?	20 foundation. He never gave the order. That was
21 A Close to the door of the chief engineer.	21 never --
22 Q Mr. Dragomir?	22 MR. PHILLIPS: He testified that
23 A Yes.	23 the chief engineer --
24 Q Now, that engine logbook, that's not the	24 BY MR. KOTILA:
Page 35	Page 37
1 same as this particular book?	1 Q What's your answer? Did you give the
2 A No.	2 order to fill the tanks or did you fill the tanks?
3 Q Are you familiar with what is	3 MR. CHALOS: Objection; leading.
4 Government's Exhibit No. 1?	4 THE WITNESS: We were asked to do
5 A Oil Record Book, sir.	5 that, and then we did it.
6 Q How are you familiar with this book?	6 BY MR. KOTILA:
7 A I've seen it in other ships as well.	7 Q You physically did it?
8 Q Have you seen it on this ship?	8 A Yes, sir.
9 A No, I didn't see it.	9 Q How did you do it?
10 Q Okay. So you did see this book.	10 A In the bilge tank, we used a bilge pump.
11 (Discussion held off the	11 In the sludge tank, we used the freshwater hydrofoil
12 stenographic record.)	12 tank -- hydrophoric tank.
13 BY MR. KOTILA:	13 Q So the bilge -- the suction tank pumped
14 Q Let me ask you a question: Before you	14 from the bilge tank came from the ocean? That's the
15 got to the United States, did you receive an order	15 saltwater?
16 from the chief engineer to backfill the wells to	16 A Yes, sir.
17 bring them up to a certain level? Do you recall?	17 Q When did you do this? When on the
18 A Could you repeat that.	18 vessel? Before you got to the United States or in
19 Q Did you put water, saltwater and	19 the United States?
20 freshwater, in wells? In tanks or wells?	20 A Before we arrived.
21 A Yes, sir.	21 Q How far before you arrived?
22 Q Tell us about that.	22 A I don't remember exactly what the
23 A We needed to put some water -- seawater	23 distance was.
24 and fresh for the bilge tank, freshwater for the	24 Q A day before you got to the United

Page 38	Page 40
<p>1 States? Two days?</p> <p>2 A I believe it was a day.</p> <p>3 Q A day before you reached Delaware?</p> <p>4 A Yes, sir.</p> <p>5 MR. KOTILA: Thank you.</p> <p>6 (Discussion held off the record.)</p> <p>7 CROSS-EXAMINATION</p> <p>8 BY MR. CHALOS:</p> <p>9 Q Mr. Villano, you told us about some</p> <p>10 discussions you had with two different men, one man</p> <p>11 named Madias and one man named Christos; right?</p> <p>12 A Yes, sir.</p> <p>13 Q And then you told Mr. Kotila that you</p> <p>14 thought Mr. Madias was the owner of the ship; right?</p> <p>15 A Yes, sir.</p> <p>16 Q Now, look me in the eyes. You don't know</p> <p>17 that, do you?</p> <p>18 A That's what they said.</p> <p>19 Q So my question to you is, you don't know</p> <p>20 what Mr. Madias' role was with the ships, do you?</p> <p>21 A He told me that he was the owner.</p> <p>22 Q He told you that?</p> <p>23 A Yes, sir.</p> <p>24 Q And when he told you that, who was</p>	<p>1 A But the question was not phrased that</p> <p>2 way, you know.</p> <p>3 Q Well, I do know; that's why I'm trying to</p> <p>4 find out.</p> <p>5 The question of Mr. Kotila was how</p> <p>6 did you know he was the owner? And your answer to</p> <p>7 him was, "They told me."</p> <p>8 A He told me.</p> <p>9 Q You didn't tell Mr. Kotila "he" told you.</p> <p>10 You told Mr. Kotila, "they told me."</p> <p>11 Who was "they"?</p> <p>12 A The whole engine room said that.</p> <p>13 Q So the whole engine room said that?</p> <p>14 A The group from the engine room.</p> <p>15 Q Okay. Now, you also told me just a</p> <p>16 second ago that when you met with Mr. Madias, that</p> <p>17 the chief engineer was present.</p> <p>18 A Yes, sir.</p> <p>19 Q Okay. Now, that's not what you told the</p> <p>20 Grand Jury; right?</p> <p>21 A The first day that I said, I said that he</p> <p>22 was there. The next day he wasn't there. That's</p> <p>23 what I said.</p> <p>24 Q Let's talk about your Grand Jury. Okay?</p>
Page 39	Page 41
<p>1 present?</p> <p>2 A He himself and the wife.</p> <p>3 Q So nobody else was present?</p> <p>4 A We were at the table.</p> <p>5 Q My question is nobody else from the crew</p> <p>6 was present?</p> <p>7 A The chief engineer was there.</p> <p>8 Q Mr. Dragomir was there?</p> <p>9 A Yes, sir.</p> <p>10 Q Now, Mr. Christos, you don't know who</p> <p>11 Mr. Christos was, do you?</p> <p>12 A They told me that he was the</p> <p>13 superintendent.</p> <p>14 Q Okay. Well, wait a minute. When you say</p> <p>15 "they told me," who is that?</p> <p>16 A He himself told me.</p> <p>17 Q Okay. Now, before, when Mr. Kotila asked</p> <p>18 you about who Madias was, your answer was "they told</p> <p>19 me he was the owner."</p> <p>20 A That's what he said.</p> <p>21 Q Wait a minute.</p> <p>22 A And he himself said that.</p> <p>23 Q Well, that's not your answer to</p> <p>24 Mr. Kotila, was it?</p>	<p>1 Before you went to the Grand Jury,</p> <p>2 the Government made a promise to you; right? That if</p> <p>3 you'd cooperate with their investigation that you</p> <p>4 wouldn't get in trouble for anything that you did</p> <p>5 that was wrong.</p> <p>6 A From what I know and the way I understood</p> <p>7 it, nothing will happen to us if we do not tell a</p> <p>8 lie.</p> <p>9 Q Okay. But you knew that at the time the</p> <p>10 Government made that promise to you you had done</p> <p>11 something wrong.</p> <p>12 A All I'm telling you here is the truth.</p> <p>13 Q Okay. Listen to my question, please.</p> <p>14 At the time you made that agreement</p> <p>15 with the Government that you would cooperate in their</p> <p>16 investigation, their promise to you was that you</p> <p>17 would not get into trouble for anything that you did</p> <p>18 wrong so long as you agreed to cooperate with them;</p> <p>19 right?</p> <p>20 A Yes.</p> <p>21 Q And then you went and you testified</p> <p>22 before the Grand Jury on January the 12th; right?</p> <p>23 A Yes, sir.</p> <p>24 Q And then at the end of the day, after the</p>

12 (Pages 42 to 45)

Page 42	Page 44
1 Grand Jury, after the Government was finished asking 2 you questions, you took it upon yourself to go find 3 the prosecutors; right? 4 A Yes, sir. 5 Q And you went running to the prosecutors 6 because you wanted to tell them something else that 7 you thought would be helpful for their case; right? 8 A Yes, sir. 9 Q And when you went running to the 10 prosecutors, the information that you told them about 11 was what we're talking about now, your discussions 12 with Mr. Madias; right? 13 A Yes, sir. 14 Q And now, they asked you about if anyone 15 asked you to lie during your Grand Jury testimony; 16 right? 17 A Yes, sir. 18 Q And you never said anything in the first 19 session about Mr. Madias? 20 A That was not asked as a question. 21 Q It wasn't asked? Well, let's take a 22 look. 23 Do you remember, there was a series 24 of questions about whether anyone told you what to	1 everything you know about all your conversations with 2 the owner -- who you thought was the owner; right? 3 A Yes, sir. 4 Q And you did that; right? 5 A Yes, sir. 6 Q And then Mr. Falgowski asked you to come 7 to the Grand Jury for a second time; right? 8 A Yes, sir. 9 Q And at that second session, Mr. Falgowski 10 asked you again about your discussions with 11 Mr. Madias; right? 12 A Yes, sir. 13 Q Okay. And take a look now -- and I'll 14 make a representation this is a transcript of your 15 February 2nd Grand Jury appearance, and I'm asking 16 you to show me where you told Mr. Falgowski or the 17 Grand Jury that the chief engineer was present during 18 these discussions. 19 A It was asked to me that question the 20 second day, the second time, not the first day. 21 Q That's the second day. That's a 22 transcript of the second day. 23 A What I meant was that time when the chief 24 engineer -- the first day when the owner arrived, but
Page 43	Page 45
1 tell the Coast Guard; right? 2 A Could you repeat that. 3 Q Yeah. There was a series of questions 4 about whether anybody ever asked you or told you what 5 to say to the Coast Guard. 6 A And who asked me that question? 7 Q The prosecutors. Do you remember that? 8 A I don't remember that anymore. 9 Q Okay. So as you sit here today, you 10 don't remember what you told the Grand Jury on 11 January 12th, 2006? 12 A Some of it I don't. 13 Q Okay. Now, after you finished your 14 testimony before the Grand Jury on January 12th and 15 you went to find Mr. Falgowski, you told him about 16 discussions you had with Captain Madias; right? 17 A Yes, sir. 18 Q And he asked you, Mr. Falgowski asked 19 you -- 20 MR. KOTILA: Objection; calls for 21 speculation. 22 MR. CHALOS: Party statement. 23 BY MR. CHALOS: 24 Q Mr. Falgowski asked you to tell him	1 the next day, the chief engineer was not there 2 anymore. And so I have not told it in this 3 particular situation. 4 Q So let me see if I got this right. 5 The only time the chief engineer 6 was present was the first day, when Mr. Madias told 7 you there's nothing you can do about your statement; 8 right? 9 A Yes. 10 Q So it's fair to say that all this 11 testimony that you've given us about Mr. Madias 12 telling you to change your statement occurred when 13 nobody else was present? 14 A Yes. Yes, sir. 15 Q So it was just you and him? 16 A Yes, sir. 17 Q So there's nobody else that can confirm 18 what you're saying as being true, is there? 19 A Only the two of us. 20 MR. CHALOS: Okay. Let's take a 21 break. It's a good time for lunch. 22 THE VIDEOGRAPHER: Off the record 23 at 1:02. 24 (Luncheon recess from 1:02 p.m. to

Edgar Villano

13 (Pages 46 to 49)

Page 46	Page 48
<p>1 2:14 p.m.) 2 (Documents marked CSME Exhibits 17 3 through 22 for identification.) 4 THE VIDEOGRAPHER: We are on the 5 record at 2:14. 6 BY MR. CHALOS: 7 Q Good afternoon, Mr. Villano. 8 A Good afternoon, sir. 9 Q Did you have an opportunity to have 10 lunch? 11 A Yes, sir. 12 Q During lunch, did you speak with anybody 13 about your testimony here today? 14 A No, sir. 15 Q Did you speak with Roberto Damasing 16 during the break? 17 A Yes, sir. 18 Q And Mr. Damasing is going to be the next 19 witness to testify; right? 20 A Yes, sir. 21 Q Let's talk a little bit about you and 22 your background and history before you were hired to 23 join the Irene E.M. 24 I'm going to show you what we've</p>	<p>1 A Yes, sir. 2 Q Okay. Now, take a look at the second 3 page. 4 Now, that document bears your 5 signature on the bottom left-hand side; right? 6 A Yes, sir. 7 Q Okay. And this document, you made a 8 declaration that you received and you reviewed the 9 environmental protection policy of the principal of 10 the Irene E.M. vessel; right? 11 A Yes, sir. 12 Q Now, before you signed this document and 13 made that declaration, you reviewed that 14 environmental protection policy, did you not? 15 A Yes, sir. 16 Q Okay. And you made a declaration that 17 during your time on board the ship, that you would 18 follow that policy and uphold the laws, did you not? 19 A Yes, sir. 20 Q And that's what you told the owner of the 21 ship and the managers of the ship you were going to 22 do if they hired you as second engineer; right? 23 A They didn't say anything of that sort. 24 This is just from the crewing company.</p>
Page 47	Page 49
<p>1 previously marked as CSME Defendants' Deposition 2 Exhibit No. 17. For the record, I'll make a 3 representation that the exhibit is five pages. 4 Now, Mr. Villano, earlier today 5 Mr. Kotila asked you some questions about the 6 employment contract you signed. Do you remember 7 that? 8 A Yes, sir. 9 Q And is Exhibit 17 a copy of the 10 employment contract and its attachments? 11 A Could you repeat that. 12 Q That's the papers that you signed before 13 you joined the ship; right? 14 A Yes, sir. 15 Q Okay. Now, when you signed the contract 16 in the Philippines on or about November the 11th of 17 2005 -- right? 18 A Yes, sir. 19 Q And the deal was you were going to work 20 on board the Irene E.M. for nine months -- 21 A Yes, sir. 22 Q -- plus a possible additional three 23 months, upon mutual consent of you and your crewing 24 agent; right?</p>	<p>1 Q Okay. But the crewing company gave you 2 the principles of the environmental protection 3 policy, did they not? 4 A Yes, sir. 5 Q Okay. So the deal was that if you were 6 going to be hired to work on board this ship, you 7 knew that you were expected to follow the company's 8 environmental protection policy and to uphold the 9 laws; right? 10 A Yes, sir. 11 MR. CHALOS: I'll take that back. 12 Thank you, Mr. Villano. 13 THE WITNESS: Yes, sir. 14 MR. CHALOS: If I haven't done it 15 already, I'd like to move Defendants' Exhibit No. 17 16 into evidence. 17 MR. KOTILA: No objection. 18 (Document marked CSME Exhibit 17 19 moved into evidence.) 20 BY MR. CHALOS: 21 Q Mr. Villano, I'm going to show you what 22 we've premarked as Defense's CSME -- Defendant CSME 23 Exhibit No. 18. And for the record, I'll make a 24 representation it's a three-page document.</p>

14 (Pages 50 to 53)

Page 50	Page 52
1 Now, Mr. Villano, that exhibit I 2 just showed you is what? 3 A Seaman's book, sir. 4 Q It's a photocopy of your seaman's book; 5 right? 6 A Yes, sir. 7 Q And also it's a photocopy of your 8 passport; right? 9 A Yes, sir. 10 Q Okay. And you are a Philippine national, 11 correct? 12 A Yes, sir. 13 MR. CHALOS: Can I move into 14 evidence Defendants' Exhibit 18. 15 MR. KOTILA: No objection. 16 (Document marked CSME Exhibit 18 17 moved into evidence.) 18 BY MR. CHALOS: 19 Q Now, today when Mr. Kotila was asking you 20 some questions, as you're doing while I'm asking you 21 questions, you're using the assistance of our 22 interpreter. 23 A Yes, sir. 24 Q And the reason why you're doing that is	1 the Government, on board the vessel and subsequently, 2 sometimes with and sometimes without the assistance 3 of an interpreter. And I think it's going to be 4 important for the jury to see exactly how good or how 5 bad his command of the English language is. 6 MR. TWERSKY: Let's go off the 7 record. 8 THE VIDEOGRAPHER: Off the record 9 at 2:23. 10 (Brief recess.) 11 THE VIDEOGRAPHER: We are on the 12 record at 2:33. 13 BY MR. CHALOS: 14 Q Okay. Mr. Villano, I'm going to show you 15 what we've previously marked as CSME Defendants' 16 Exhibit No. 19. For the record, I'll make a 17 representation it's a three-page document, and I'll 18 ask you to take a look at those. 19 And my first question to you, 20 Mr. Villano, is, the first page of Exhibit 19 is a 21 copy of your license; correct? 22 A Yes, sir, is. 23 Q And that's your license to be a second 24 engineer; right?
Page 51	Page 53
1 because English is your second language; right? 2 A Yes, sir. 3 Q Your first language is a language called 4 Ilongo, I-L-O-N-G-O? 5 A Yes, sir. 6 Q And then you also speak a second language 7 called Tagalog; right? 8 A Yes, sir. 9 Q And you're very fortunate, you're 10 multilingual and can also speak some English; 11 correct? 12 A Yes, sir. 13 Q But you don't feel comfortable conducting 14 an official meeting like this solely in English, do 15 you? 16 A I'm comfortable enough. 17 Q Okay. I'd like you to do that then. 18 A Okay. I'll try it. 19 MR. TWERSKY: On advice of his 20 counsel, I'm going to advise him not to do that, 21 because I'm not comfortable with him in English. 22 MR. CHALOS: I think we're going to 23 have to call the judge on this. Because we have an 24 issue here where he was interviewed several times by	1 A Yes, sir. 2 Q Who is that issued by? 3 A PRC. 4 Q What is the PRC? 5 A Philippine Commission. 6 Q That's the Philippine Regulatory 7 Commission; correct? 8 A Yes. 9 Q And the next two pages are endorsements 10 to your Philippine license from the ship's flag 11 state; right? 12 A Yes, sir. 13 Q So at the time that you boarded the Irene 14 E.M. in Brazil, you held a license from the 15 Government of the Philippines and an endorsed second 16 engineer's license from the flag state administration 17 for the vessel; right? 18 A Yes, sir. 19 MR. CHALOS: I'd like to move that 20 into evidence. 21 MR. KOTILA: Objection. 22 (Document marked CSME Exhibit 19 23 admitted into evidence.). 24 BY MR. CHALOS:

Edgar Villano

15 (Pages 54 to 57)

Page 54	Page 56
<p>1 Q Now, I'd like to show you what we've 2 marked as Exhibit 20. It's an exhibit of several 3 pages. Just take a look.</p> <p>4 Now, Mr. Villano, my first question 5 to you is, do all the pages in that exhibit -- strike 6 that.</p> <p>7 Are all the pages copies of 8 certificates you've received for various training 9 you've gone to over the years?</p> <p>10 A Yes, sir.</p> <p>11 Q And you've been sailing since 1991?</p> <p>12 A Yes, sir.</p> <p>13 Q And you've been on board at least 10 14 other ships besides the Irene E.M.?</p> <p>15 A Yes, sir.</p> <p>16 Q Okay. Now, Mr. Villano, before we took a 17 break, I asked you if you would be comfortable in 18 proceeding today in English. And you've had an 19 opportunity to meet with your lawyer to discuss his 20 objection; right?</p> <p>21 A Object?</p> <p>22 Q Well, you've had an opportunity to 23 discuss my request with your lawyer; right?</p> <p>24 A Yeah. We talked about it, but it's not</p>	<p>1 available to you?</p> <p>2 A No, sir.</p> <p>3 Q Were you advised that you had the right 4 to have an attorney present during that meeting?</p> <p>5 A No, sir.</p> <p>6 Q Okay. Would you have preferred if an 7 interpreter was present for that meeting?</p> <p>8 A Yes, sir.</p> <p>9 Q Okay. Take a look again at what we just 10 marked as Exhibit 20, Mr. Villano, in front of you, 11 and --</p> <p>12 Well, before we get into the 13 substance, I'd like to move Exhibit 20 into evidence 14 as a copy of training certificates.</p> <p>15 MR. KOTILA: No objection. (Document marked CSME Exhibit 20 moved into evidence.)</p> <p>16 BY MR. CHALOS:</p> <p>17 Q Okay. Now take a look, Mr. Villano, at 18 the first page now. It talks about a MARPOL training 19 course from November 24th and November 25th of 1997 20 in Manila, the Philippines.</p> <p>21 A 1999?</p> <p>22 Q I don't think so, Mr. Villano. Are we</p>
Page 55	Page 57
<p>1 because he objected --</p> <p>2 MR. TWERSKY: I'm going to advise 3 my client not to discuss anything that we discussed. 4 That's privileged and confidential between us.</p> <p>5 You can answer "yes" or "no" to 6 whether we had a conversation. But I'm going to 7 advise you not to disclose the contents of our 8 conversation, because then they'll no longer be 9 confidential.</p> <p>10 THE WITNESS: Yes, sir.</p> <p>11 BY MR. CHALOS:</p> <p>12 Q Okay. Now, do you have a preference to 13 continue either in English or with the assistance of 14 the interpreter?</p> <p>15 A With an interpreter.</p> <p>16 Q Okay. Now, you also had official 17 meetings on board the vessel where the Coast Guard 18 called you and the rest of the crew into the mess 19 room; right?</p> <p>20 A Yes, sir.</p> <p>21 Q And did the Coast Guard have an 22 interpreter present with them?</p> <p>23 A No, sir.</p> <p>24 Q Did the Coast Guard make an interpreter</p>	<p>1 looking at the same page? 2 This number here. Maybe you need 3 your glasses.</p> <p>4 A Oh, yeah. Yes, sir.</p> <p>5 Q 1997; right?</p> <p>6 A Yes, sir.</p> <p>7 Q And you attended that training?</p> <p>8 A Yes.</p> <p>9 Q And did you attend another training in 10 1999?</p> <p>11 A I don't remember anymore.</p> <p>12 Q Okay. Turn to the next page, 13 Mr. Villano. And there's another certificate from 14 the Philippines Seafarer's Training Center -- 15 Seafarer's Training Center, correct -- and it says 16 Certificate of Completion for another MARPOL class, a 17 three-day class, April 26th, 27th and 28th, 2004.</p> <p>18 And my question to you is, you did 19 attend that seminar, did you not?</p> <p>20 A Yes, sir.</p> <p>21 Q And in fact, this Certificate of 22 Completion has your photograph in the bottom?</p> <p>23 A Yes, sir.</p> <p>24 Q Okay. Now, turn to the next page, if you</p>

16 (Pages 58 to 61)

Page 58	Page 60
1 will. And this is a Certificate of Completion 2 from -- it looks like the Excellence and Competency 3 Training Center in Sampaloc, Manila. And this 4 relates to a training course in maritime law for 5 ships officers that was conducted from September 19th 6 through September 24th, 2005. 7 A Maritime law, sir? 8 Q Yeah, the next page. 9 And you attended a week-long 10 five-day seminar on maritime law for ships officers; 11 right? 12 A Yes. 13 Q And that Certificate of Completion also 14 has your picture on the bottom; right? 15 A Yes, sir. 16 Q Now, take a look at the next page. This 17 is a Certificate of Attendance for in house training 18 issued by Bright Maritime Corporation. Do you see 19 that? 20 Let me see, Mr. Villano. Let me 21 see if I can help you -- correct, that's the one. 22 And it says that you received a 23 certificate for having attended a seminar on the ISM 24 code and having been briefed on the policies and	1 marked as Exhibit 7. And I'll take Exhibit 20 from 2 you. 3 And Mr. Villano, Exhibit 7 is a 4 copy of the Chian Spirit environmental protection 5 policy that you studied before going on board the 6 Irene E.M., is it not? 7 A Yes, sir. 8 Q A copy of that, Mr. Villano, was readily 9 available and displayed on board the ship, was it 10 not? 11 A Yes, sir. 12 Q There was a copy of the company's 13 environmental protection policy posted in the ship's 14 office, was there not? 15 A I didn't notice it. 16 Q Okay. There was a copy that you did 17 notice in the mess room? 18 A Yes, sir. 19 Q And there was another copy in the 20 hallway? 21 A That I don't remember. 22 Q And you know that there was one in the 23 engine room on the plywood bulletin board; right? 24 A That I could not remember.
Page 59	Page 61
1 safety management system of Chian Spirit Maritime 2 Enterprises, Inc. from November 14th through 3 November 15th at Pasig City in the Philippines. 4 A Yes, sir. 5 Q And you attended a two-day seminar in the 6 Philippines from November 14th and 15th, 2005, at 7 your crewing agent; correct? 8 A Yes, sir. 9 Q And you discussed Chian Spirit Maritime 10 Enterprises safety management system; right? 11 A Yes, sir. 12 Q And Chian Spirit was the manager or the 13 operator of the Irene E.M.; correct? 14 A Yes, sir. 15 Q So you went to special training to learn 16 the company's policies before you got on board their 17 ship; right? 18 A Yes, sir. 19 Q And in fact, you were given a copy of the 20 Chian Spirit safety management system, and 21 specifically the environmental protection policy; 22 right? 23 A Yes, sir. 24 Q I'm going to show you what we previously	1 Q It's not that you don't know; it's just 2 that you can't remember as you sit here today; right? 3 A I don't remember. 4 Q Okay. Is there anything that would 5 refresh your recollection, Mr. Villano, about what 6 was on that bulletin board in the engine room? 7 A I don't remember of anything. 8 Q Now, Mr. Villano, when you got on board 9 the ship -- or let me rephrase my question. 10 Before you got on board the ship, 11 you knew that the owner of the ship and the manager 12 of the ship were serious about environmental 13 protection. 14 A I'm not really sure, sir. 15 Q Well, you know that they were serious 16 enough to make sure that you went for training on 17 their policies and procedures? 18 A That's a requirement, sir. 19 Q And it was a requirement that you had to 20 complete; otherwise, you couldn't work on board the 21 ship, is it not? 22 A Yes, sir. 23 Q And the company was also serious about 24 its crew, and they wanted to make sure that you were

Edgar Villano

17 (Pages 62 to 65)

Page 62	Page 64
<p>1 fit for the service before you got on board your 2 ship, did they not?</p> <p>3 A Yes.</p> <p>4 Q And they asked you to go and undergo 5 various tests to make sure you were physically and 6 mentally capable of doing the job, did they not?</p> <p>7 A Yes, sir.</p> <p>8 Q And I'm going to show you what we've 9 marked as CSME Defendants' Exhibit No. 21. And those 10 were the records relating to those examinations and 11 tests you underwent before getting on board the ship?</p> <p>12 A Yes, sir.</p> <p>13 MR. CHALOS: I'd like to move 14 Defendants' Exhibit 21 into evidence.</p> <p>15 MR. KOTILA: No objection.</p> <p>16 (Document marked CSME Exhibit 21 17 admitted into evidence.)</p> <p>18 BY MR. CHALOS:</p> <p>19 Q Now, when you came on board the ship, 20 Mr. Villano, you checked in with the chief engineer, 21 did you not?</p> <p>22 A Yes, sir.</p> <p>23 Q And the chief engineer told you that you 24 had a certain shift or a certain watch that would be</p>	<p>1 Q And he's the guy you spoke to during the 2 lunch break today; right?</p> <p>3 A Yes, sir.</p> <p>4 Q You joined the ship in Brazil; correct?</p> <p>5 A Yes, sir.</p> <p>6 Q Earlier today you told Mr. Kotila it was 7 about November 17th that you joined the ship?</p> <p>8 A Yes, sir. Yes, sir.</p> <p>9 Q And that was in a place called Fortaleza, 10 Brazil; correct?</p> <p>11 A Yes, sir.</p> <p>12 Q And after you joined the vessel in 13 Fortaleza, did the vessel make any other stops in 14 Brazil?</p> <p>15 A Yes, sir.</p> <p>16 Q Where did it go?</p> <p>17 A I don't remember exactly what port that 18 was. It was a loading port.</p> <p>19 Q How long was the vessel at the loading 20 port?</p> <p>21 A I don't exactly remember how many days it 22 was.</p> <p>23 Q More than one day?</p> <p>24 A Yes, sir.</p>
<p>1 your working hours on board the Irene E.M., did you 2 not?</p> <p>3 A Yes, sir.</p> <p>4 Q And the watch that you stood or the hours 5 that you worked were 4:00 to 8:00, both during the 6 day and at night?</p> <p>7 A Yes, sir.</p> <p>8 Q So in military time, you would work from 9 0400 to 0800; and then again from 1600 hours to 2000 10 hours; right?</p> <p>11 A Yes, sir.</p> <p>12 Q And when you were working those hours, 13 you were the duty engineer, were you not?</p> <p>14 A Yes, sir.</p> <p>15 Q And not only were you the duty engineer, 16 but you had one individual that reported directly to 17 you?</p> <p>18 A Yes, sir.</p> <p>19 Q And that was an oiler named Roberto 20 Damasing?</p> <p>21 A Yes, sir.</p> <p>22 Q And during the night shift, he was the 23 only other guy in the engine room with you mostly?</p> <p>24 A Yes, sir.</p>	<p>1 Q More than two days?</p> <p>2 A All I remember was we left on the 21st.</p> <p>3 Q Mr. Villano, the ship actually made two 4 stops in Brazil after you got on board, did it not?</p> <p>5 A I arrived in Fortaleza and then we 6 loaded, and I don't remember what that port was.</p> <p>7 Q Recife?</p> <p>8 A I don't remember. I have no memory of 9 that.</p> <p>10 Q Well, Mr. Villano, that really leads me 11 to my next point.</p> <p>12 As the third engineer, you don't 13 have any responsibility for --</p> <p>14 MR. KOTILA: Objection. He's the 15 second engineer.</p> <p>16 MR. CHALOS: Okay. Let me withdraw 17 my thing. I got distracted for a second. Withdraw 18 my question and start again.</p> <p>19 BY MR. CHALOS:</p> <p>20 Q As the second engineer, Mr. Villano, you 21 don't have any responsibility for the navigation of 22 the vessel, do you?</p> <p>23 A Yes, sir.</p> <p>24 Q Meaning -- "yes, sir" meaning you don't</p>

18 (Pages 66 to 69)

Page 66	Page 68
1 have any responsibility for the navigation?	1 that you were supposed to report it to the captain;
2 A In navigation?	2 right?
3 Q Navigation is my question.	3 A Yes, sir.
4 A The bridge system, no.	4 Q Now, in this situation, you never told
5 Q And you worked in the engine room?	5 the captain what you were doing in the engine room,
6 A Yes, sir.	6 did you?
7 Q So you don't really know where the ship	7 A Yes, sir.
8 is when you're doing things in the engine room, do	8 Q When you say "yes, sir," meaning no, you
9 you?	9 never told the captain what you were doing, did you?
10 A Sometimes they would call us -- call it	10 A Yes, sir.
11 out to us where the location is.	11 Q Okay. Mr. Villano, when you say "yes,
12 Q Okay. But if they don't call out the	12 sir," are you agreeing with me that you never told
13 location to you from the bridge, you wouldn't be able	13 the captain what you were doing in the engine room?
14 to identify your latitude and longitude, would you?	14 A Could you repeat that.
15 A Yes, sir.	15 Q When you say "yes, sir," are you agreeing
16 Q "Yes, sir" meaning you don't know your	16 with me that you never told the captain what you were
17 latitude and longitude?	17 doing in the engine room?
18 A Yes, sir.	18 A What do you mean, what we were doing?
19 Q Okay. Mr. Villano, what do you mean by	19 Q Okay. Mr. Villano, we're talking about
20 "yes, sir"? You don't know, do you?	20 when you gave the orders to pump oil over the side.
21 A I don't know.	21 Do you remember that?
22 Q Okay. That's what I was trying to	22 A Yes, sir.
23 clarify.	23 Q And you knew it was wrong?
24 We just looked at your certificates	24 A Yes, sir.
Page 67	Page 69
1 Mr. Villano. And from what I've seen so far, there	1 Q And you knew that you and the captain and
2 was at least two training classes that you took on	2 the company could get in trouble; right?
3 MARPOL; correct?	3 A Yes, sir.
4 A Yes, sir.	4 Q And you knew that if you saw a MARPOL
5 Q And during the MARPOL training, you	5 violation or someone asked you to break the law, you
6 learned that it was wrong to discharge oil or oily	6 were supposed to report that to the captain; right?
7 wastes into the ocean, did you not?	7 A It should have been, yes.
8 A Yes, sir.	8 Q And you never reported to the captain --
9 Q And you knew that if you did that, you	9 A Yes, sir.
10 could get into trouble for it, did you not?	10 Q -- you never reported to the captain what
11 A Yes, sir.	11 you were doing in the engine room?
12 Q And you also knew that if you did that,	12 A Yes, sir.
13 the company who owns the ship and the company who	13 Q You agree with me that you never made
14 manages or operates the ship could also get into big	14 that report to the captain?
15 trouble for those actions?	15 A Yes, sir.
16 A Yes, sir.	16 Q And you never made any notifications to
17 Q And you also knew that the chief engineer	17 Chian Spirit about the overboard discharge orders you
18 could get in trouble for it?	18 were giving to your junior engineers, did you?
19 A Yes, but he's the one that ordered it.	19 A Yes, sir.
20 Q Okay. And you also knew that the captain	20 Q When you say "yes, sir," meaning no, you
21 could get in trouble for it, did you not?	21 never gave any notification, did you?
22 A Yes, sir.	22 A Yes, sir.
23 Q And part of that training, Mr. Villano,	23 Q Mr. Villano, I think we're saying the
24 taught you that if you observed a MARPOL violation,	24 same thing, but I'm not sure it's clear.

Page 70	Page 72
<p>1 When you say "yes, sir," are you 2 agreeing with my statement?</p> <p>3 A Yes, sir.</p> <p>4 Q Now, you never reported to Venetico, the 5 company that owns the ship, that you were giving 6 orders to the junior engineers to discharge 7 overboard, did you?</p> <p>8 A Yes, sir.</p> <p>9 MR. KOTILA: Stop, George. I'm 10 sorry.</p> <p>11 THE VIDEOGRAPHER: Off the record 12 at 2:59.</p> <p>13 (Brief recess.)</p> <p>14 THE VIDEOGRAPHER: We are on the 15 record at 3:14. This is tape 4 of Edgar Villano's 16 deposition.</p> <p>17 BY MR. CHALOS:</p> <p>18 Q Okay. Mr. Villano, let me go back and 19 revisit some areas that you told us about earlier 20 today when Mr. Kotila was asking you some questions.</p> <p>21 You were the guy who gave the order 22 to the third engineer to pump the bilges overboard; 23 right?</p> <p>24 A Yes, sir.</p>	<p>1 Q Well, Mr. Villano, you yourself never 2 discharged anything overboard, did you?</p> <p>3 A Yes, sir.</p> <p>4 Q When you say "yes, sir," you're agreeing 5 with me?</p> <p>6 A Yes, sir.</p> <p>7 Q So it's a true statement that you, Edgar 8 Villano, second engineer on board the Irene E.M., 9 never operated the pumps to discharge any oily waste 10 overboard?</p> <p>11 A Yes.</p> <p>12 Q And it's also a true statement that the 13 captain never instructed you to either personally 14 discharge or order anyone to discharge anything 15 overboard?</p> <p>16 A Yes, sir.</p> <p>17 Q It's also a true statement, is it not, 18 Mr. Villano, that no one from Chian Spirit ever 19 instructed you to discharge anything overboard?</p> <p>20 A Yes, sir.</p> <p>21 Q In fact, it was completely contrary to 22 the interests of Chian Spirit for you or anyone else 23 to do that on board the Irene E.M.? That's correct?</p> <p>24 That's a correct statement, Mr. Villano, is it not?</p>
<p>1 Q And you also gave that order to the 2 fourth engineer as well; right?</p> <p>3 A Yes, sir.</p> <p>4 Q Now, did you personally tell both the 5 fourth engineer and the third engineer, or did you 6 just tell the fourth engineer?</p> <p>7 A I told the fourth engineer.</p> <p>8 Q Okay. So if I understand you correctly, 9 you never personally told the third engineer to 10 discharge anything overboard, did you?</p> <p>11 A Yes, sir.</p> <p>12 Q Yes, sir, you told him; or yes, sir, you 13 didn't tell him?</p> <p>14 A I did not tell the third engineer 15 directly.</p> <p>16 Q The only person that you ordered to 17 discharge anything overboard was the fourth engineer; 18 correct?</p> <p>19 A Yes, sir.</p> <p>20 Q And you believed that that's what the 21 chief engineer wanted; correct?</p> <p>22 A From what I understood, that I should 23 tell the fourth engineer, and the fourth engineer 24 will then in turn tell the third engineer.</p>	<p>1 MR. KOTILA: Objection; calls for 2 speculation on behalf of what Chian's interests are.</p> <p>3 BY MR. CHALOS:</p> <p>4 Q Okay. You can answer it.</p> <p>5 A Yes, sir.</p> <p>6 Q So the record is clear, Chian Spirit 7 never directed you to discharge anything overboard?</p> <p>8 A Yes, sir.</p> <p>9 Q In fact, it was their direct instructions 10 not to discharge anything overboard?</p> <p>11 A They didn't tell me anything of that 12 sort.</p> <p>13 Q Well, you knew what their policies were; 14 right?</p> <p>15 A Yes.</p> <p>16 Q And you went to their training class, did 17 you not?</p> <p>18 A Yes, sir.</p> <p>19 Q So you knew it was the Chian Spirit 20 policy to protect the environment?</p> <p>21 A Yes, sir.</p> <p>22 Q Okay. And same questions for Venetico, 23 the company that owns the ship: No one from 24 Venetico -- strike that. Let me rephrase my</p>

Edgar Villano

20 (Pages 74 to 77)

Page 74

1 question.
 2 It is a correct statement, is it
 3 not, that no one from Venetico ordered you to dump
 4 anything over the side into the ocean?
 5 A Yes, sir.
 6 Q And it's also a correct statement that
 7 that was against the principal's policies for you or
 8 anyone else to do that on board the ship?
 9 A Yes, sir.
 10 Q Let's talk a little bit more about the
 11 order.
 12 You said the chief engineer gave
 13 you a verbal order to discharge the bilges overboard?
 14 A Yes, sir.
 15 Q When you say "bilges," what are you
 16 talking about?
 17 A The water coming from -- from the bilge
 18 pump.
 19 Q So it was your understanding that the
 20 chief engineer, when he gave you an order to pump the
 21 bilge wells -- let me strike and rephrase my
 22 question. I stumbled on my words.
 23 It was your understanding, when you
 24 spoke to the chief engineer, he ordered you to do

Page 75

1 something with the liquid that was in the bilge
 2 wells; right?
 3 A It was verbally told to me. Not only the
 4 bilges, but the sludge as well.
 5 Q All right. Now, it's a fact, is it not,
 6 that on board the vessel, it was the usual practice
 7 to transfer materials from the bilge wells to the
 8 bilge holding tank?
 9 A Yes, sir.
 10 Q And the bilge holding tank was gigantic?
 11 A Yes, sir.
 12 Q 106 cubic meters at least; correct?
 13 A That I could not tell you.
 14 Q Well, bigger than you've ever seen on any
 15 of the other 10 ships you were on; right?
 16 A Yes, sir.
 17 Q Okay. Now, you don't know what the level
 18 of the material in that bilge holding tank was at the
 19 time the chief engineer gave you that verbal order,
 20 do you?
 21 A I know.
 22 Q Okay. What was it?
 23 A It was a collection of bilges from the
 24 bilge well.

Page 76

1 Q My question was, you don't know what the
 2 quantity was, meaning how many tons or how many cubic
 3 meters, do you?
 4 A Yes, sir.
 5 Q "Yes, sir" meaning you agree? You don't
 6 know, do you?
 7 A I don't know exactly what the total
 8 contents were.
 9 Q But you do know that it was the chief
 10 engineer's practice to make internal transfers from
 11 the bilge wells to the bilge holding tank, do you
 12 not?
 13 THE INTERPRETER: I'm sorry. I
 14 lost that.
 15 BY MR. CHALOS:
 16 Q You do know it was the chief engineer's
 17 practice to make internal transfers from the bilge
 18 wells to the bilge holding tank?
 19 A That's the normal procedure, sir.
 20 Q When -- and if you had done that, there
 21 would be nothing that went over the side into the
 22 ocean; correct?
 23 A Yes, sir.
 24 Q And that would have been a proper, legal

Page 77

1 way to maintain the oily wastes on board the vessel?
 2 A Yes, sir.
 3 Q Okay. Now, you also told us that the
 4 chief engineer wrote in a logbook his order?
 5 A Yes, sir.
 6 Q And what exactly was the words he used
 7 when he wrote that order?
 8 A "Out of engine room bilges."
 9 Q Okay. And that's exactly what you were
 10 doing when you were making these internal transfers,
 11 was it not? You were emptying out the engine room
 12 bilge wells?
 13 A But it's not being done overboard.
 14 Q Well, he never wrote in the order "Pump
 15 out overboard," did he?
 16 A He indicated in there "out overboard."
 17 And then he even spoke to me directly.
 18 Q Wait a minute, Mr. Villano. You just
 19 told us that the written order said "out engine room
 20 bilges"; right?
 21 A Yes, sir.
 22 Q Now, he never wrote "pump out overboard,"
 23 did he?
 24 A It's not written as "overboard," but the

Page 78	Page 80
1 word "out" is written. 2 Q The words that were written were "out 3 engine room bilges"? 4 A Yes, sir. 5 Q And again, that's consistent with what 6 was going on board the vessel before you joined the 7 ship, is it not? 8 A Could you repeat that. 9 Q I'll withdraw the question. 10 Mr. Villano, when you got on board 11 the ship, one of the duties that you're supposed to 12 have as second engineer is to operate the oily water 13 separator, is it not? 14 A Yes, sir. 15 Q And that's what you do on all the other 16 ships that you served as second engineer? 17 A Depending on the chief engineer. 18 Q All right. Well, on this ship, when you 19 got on board, you found out that the ship was pretty 20 old; right? 21 A Yes, sir. 22 Q And you found out that the equipment -- 23 specifically the oily water separator -- was a model 24 that you were unfamiliar with?	1 some problems; right? 2 A Yes, sir. 3 Q The calibration was off; right? 4 A Yes, sir. 5 Q And it was only off a little bit? 6 A That, I don't know what the difference 7 is. 8 Q Okay. Well, I mean, you know what 15 9 ppm is; right? 10 A Yes, sir. 11 Q And you know what -- what did you say, 37 12 or 40 ppm was when the automatic shutoff would go 13 off? 14 A Yes, sir. 15 Q So ppm stands for what? 16 A Parts per million, sir. 17 Q So at 15 ppm, that means if you had a 18 sample of oil and water, 15 ppm would mean for every 19 one million parts of water, there would only be 15 20 parts of oil; right? 21 A Yes, sir. 22 Q Okay. And 37 ppm would mean for every 23 one million parts of water in a sample, there would 24 only be 37 parts of oil?
1 A Yes, sir. 2 Q And in fact what you -- you went down to 3 try and check it out, but you couldn't even turn the 4 thing on? 5 A Yes, sir. 6 Q You didn't even know how to turn it on? 7 A Yes, sir. 8 Q You had to call the electrician to show 9 you where the switch was? 10 A Yes, sir. 11 Q Okay. So now you're telling us today, 12 earlier today when Mr. Kotila was asking you 13 questions, that you're qualified to comment on how or 14 if this equipment could work? 15 A Yes, sir. 16 Q But the truth is, you didn't know how to 17 operate it, is it not? 18 A I know how to operate it. But the power, 19 I don't know where the power was coming from. 20 Q Okay. So you tried to familiarize 21 yourself by reading the manual; right? 22 A Yes, sir. 23 Q And then when you were doing some 24 testing, you found out that the sensor was having	1 A Yes, sir. 2 Q And that's a very small difference, is it 3 not? 4 A Yes, sir. 5 Q Okay. Now, the chief engineer never told 6 you to use the oily water separator, did he? 7 THE INTERPRETER: Excuse me. I'm 8 missing you. 9 BY MR. CHALOS: 10 Q The chief engineer never told you to use 11 the oily water separator, did he? 12 A He told me to study how to use it. 13 Q Well, what he told you was to make sure 14 you knew how to use it in case you were asked if you 15 knew how to operate it; right? 16 A Yes, sir. 17 Q And that's because you didn't know what 18 you were doing? You're unfamiliar with the 19 equipment? 20 A I studied it and I knew how to do it. 21 Q Okay. But before you studied it, you 22 were unfamiliar with the equipment? 23 A Yes, Yes. 24 Q Okay. Now, let's talk about why the

22 (Pages 82 to 85)

Page 82	Page 84
1 chief engineer never ordered you to use the OWS. 2 The reason why the chief engineer 3 never used the OWS and the reason why he never 4 ordered you to use the OWS was because he told you 5 that he wasn't comfortable with the accuracy of the 6 sensor? Meaning he didn't want to make pollution in 7 the ocean. 8 MR. KOTILA: Objection; calls for 9 speculation on his behalf. 10 THE WITNESS: Is what you mean is 11 that's the reason why he didn't want the separator to 12 be used? That that's the reason why he wanted to use 13 the magic pipe? 14 BY MR. CHALOS: 15 Q Mr. Villano, he never told you to use the 16 oily water separator, did he? 17 A What I told you, I told him -- he told me 18 that I should study how to use it. 19 Q Okay. But besides telling you to study 20 how to use it, he never told you to use it, did he? 21 A Yes, sir. 22 Q Now, earlier today you told Mr. Kotila 23 about several times giving orders to discharge 24 overboard. Do you remember that?	1 Q And actually when the Coast Guard came on 2 board the ship, they asked you to write down what 3 happened, did they not? 4 A Yes, sir. 5 Q And you did that? 6 A Yes. 7 Q And it was Mr. McKnight, this gentleman 8 over here, that asked you to do that? 9 A Yes, sir. 10 Q Take a look at what we've marked 11 Defendants' CSME 22, a one-page document, which 12 appears to have the date December 9th, 2005 written 13 on the top. 14 Mr. Villano, that's the statement 15 that you wrote at the request of the Coast Guard on 16 December 9th? 17 A Yes, sir. 18 Q And when you wrote that, your memory was 19 a lot fresher about how many times you gave the order 20 to discharge overboard, was it not? 21 A Yes, sir. 22 Q And you wrote here, "I was requested by 23 the chief engineer to pump out bilges through magic 24 pipe. He ordered me directly and wrote down in
Page 83	Page 85
1 A Yes, sir. 2 Q How many times did you actually give an 3 order to discharge overboard? 4 A I don't remember anymore. 5 Q You don't remember any more? 6 A Yes, sir. 7 Q So it's fair to say, as you sit here 8 today, your memory of how many times you give 9 somebody an order to discharge overboard is not 10 clear? 11 A I just don't remember. That's it. 12 Q Was your memory better in January, when 13 you went to the Grand Jury the first time? 14 A Yes, sir. 15 Q Was your memory better in February, when 16 you went the second time to the Grand Jury? 17 A Yes, sir. 18 Q Okay. That was in January and February 19 of 2006; right? 20 A Yes, sir. 21 Q Was your memory even better back in early 22 December, when the Coast Guard came on board the 23 ship? 24 A Yes, sir.	1 engine room logbook. We pump out one time since I 2 come on board." 3 You wrote that; right? 4 A Yes, sir. 5 Q Now, does that refresh your recollection 6 about -- 7 A Yes, sir. 8 Q And it's a fact that since the time 9 you've been on board the ship between Brazil and the 10 United States, there was only one discharge 11 overboard? 12 A I was afraid at that time, sir. 13 Q You afraid at that time. What were you 14 afraid of? 15 A Of course, they were telling me that I 16 was going to go to jail. 17 Q Who was telling you that? 18 A Madias and Christos. 19 Q Wait a minute. By December 9th, 20 Mr. Villano, Christos or Mr. Madias hadn't even come 21 on board the ship. 22 A Yes, sir, you're right. I remember. 23 Q Okay. So you were afraid because the 24 Coast Guard was pressuring you; right?

Edgar Villano

23 (Pages 86 to 89)

Page 86	Page 88
1 A It's not pressure really. It's just that 2 we were scared.	1 A I'm not sure of things, so -- 2 Q So you're not sure exactly how many times 3 there were discharges overboard, are you?
3 Q What were you scared of?	4 A I don't know of how many, but I know that 5 it's a lot.
4 A Because we know that what we had done was 5 illegal.	6 Q Well, when you say "it's a lot," 7 Mr. Villano, you never turned the pump on, did you?
6 Q When you say "we," this is your 7 statement?	8 A Yes, sir.
8 A All of us.	9 Q When you say "yes, sir," meaning no, you 10 agree with me, you never turned the pump on?
9 Q Wait a minute, Mr. Villano. Let's take a 10 look at this page.	11 A Yes, sir.
11 That's your signature on the 12 bottom; right? And that's your statement?	12 Q And you also agree with me that you never 13 personally turned the pump off?
13 A Yes, sir.	14 A Yes, sir.
14 Q And that's the statement that you 15 prepared at the request of the Coast Guard?	15 Q And in fact, you never even saw the pump 16 operating?
16 A Yes, sir.	17 A Yes, sir.
17 Q And you wrote that you -- that you 18 discharged one time since Brazil, right?	18 Q You just simply gave the order?
19 A Yes, sir.	19 A Yes, sir.
20 Q Are you telling us now that what you 21 wrote was a lie?	20 Q And on December 9th, you wrote that you 21 gave the order one time; right?
22 A No, sir.	22 A Yes, sir.
23 Q So that's the truth, that it was one 24 discharge overboard?	23 Q And that's why, Mr. Villano, that you 24 went to the U.S. attorney after your first Grand Jury
Page 87	Page 89
1 A I only wrote the one, but I was scared at 2 that time. But it was more than once.	1 session and started talking about the so-called 2 discussions you had with Mr. Madias, because you were 3 scared that you would get in trouble?
3 Q Okay. So Mr. Villano, if you're scared 4 today, will you say whatever the Government wants you 5 to say so you can go home?	4 A Yes, sir.
6 MR. KOTILA: Objection.	5 Q And you thought it would help your 6 position if you went and shared that information with 7 the Government?
7 THE WITNESS: Can you repeat that.	8 A Yes, sir.
8 BY MR. CHALOS:	9 Q Now, take a look at what we looked at 10 earlier today, Government Exhibit 2. And for the 11 record, I'll make a representation that earlier today 12 you identified those hoses as magic pipe; right?
9 Q Yeah. If you're scared here today, would 10 you say whatever you think the Government wants to 11 hear?	13 A Yes, sir.
12 A Like what?	14 Q And just so we're clear, there's lots of 15 flexible hoses like this on board the ships that 16 you've served on, is there not?
13 Q Mr. Villano, you came on board 14 November 17th; right?	17 A Yes, sir.
15 A Yes.	18 Q This isn't unusual equipment to be on 19 board a ship, is it?
16 Q And you told us it was just a couple days 17 later that the chief engineer gave you this order; 18 right?	20 A Yes, sir.
19 A Yes, sir.	21 Q And they're used fairly frequently for 22 lots of different functions in the engine room, are 23 they not?
20 Q You could have gotten off the ship at one 21 of the two loading ports?	24 A Yes, sir.
22 A I can only remember one port.	
23 Q Mr. Villano, your memory is not very 24 good, is it?	

24 (Pages 90 to 93)

Page 90	Page 92
1 Q You use them with fuel oil sometimes? 2 A Yes, sir. 3 Q And you can use it with diesel oil; 4 right? 5 A Yes, sir. 6 Q And you can use it with the generators? 7 A Yes, sir. 8 Q And you can use it with lube oils? 9 A Yes, sir. 10 Q You can use it with the boilers? 11 A That I have not used for a boiler. 12 Q But the point is there's lots of uses for 13 these flexible hoses; right? 14 A Yes, sir. 15 Q Okay. Now, take a look at what we've 16 looked at earlier today, the items that were 17 described as Government Exhibit 3, the flanges. 18 A Okay. 19 Q Now, there's lots of flanges on board the 20 ships that you served on, is there not? 21 A Yes, sir. 22 Q And there's lots of flanges on board the 23 Irene E.M.? 24 A Yes, sir.	1 (Brief recess.) 2 THE VIDEOGRAPHER: We are on the 3 record at 3:59. 4 BY MR. CHALOS: 5 Q Mr. Villano, if I understand what you 6 told me correctly, earlier today, when Mr. Kotila was 7 asking you questions about the overboard discharge, 8 you told him that there was a lot of discharges; 9 right? 10 A Yes, sir. 11 Q And earlier when I asked you the same 12 questions, you suggested that there was a lot of 13 discharges; right? 14 A Yes, sir. 15 Q But when the Coast Guard asked you on 16 December 9th, you told them that there was only one 17 discharge; right? 18 A Yes, sir. 19 Q And in fact, you wrote that down in a 20 statement that you signed and gave to the U.S. 21 authorities; right? 22 MR. KOTILA: Objection. This is 23 asked and answered, that whole area. 24 BY MR. CHALOS:
Page 91	Page 93
1 Q And there's lots of proper purposes for 2 the flanges? 3 A Yes, sir. 4 Q Okay. Now, Mr. Villano, you didn't bring 5 those flanges here to this office, did you? 6 A Yes, sir. 7 Q Wait a minute. You agree with me you 8 didn't bring them here? 9 A Yes, sir. 10 Q And you agree with me that you didn't 11 bring the hoses here? 12 A Yes, sir. 13 Q And can you agree with me that you don't 14 know how the hoses or the flanges got to this office? 15 A Yes, sir. 16 Q And you don't know who took them off the 17 ship, do you? 18 A Yes, sir. 19 Q You don't even know if these actually 20 came from the ship? 21 A I know. 22 MR. CHALOS: Take five minutes. 23 THE VIDEOGRAPHER: Off the record 24 at 3:45.	1 Q You can answer. 2 A Yes, sir. 3 Q Now, you also talked about the 4 superintendent, and that was Mr. Christos? 5 A Yes, sir. Yes, sir. 6 Q And you told Mr. Kotila that he asked you 7 to change your story; right? 8 A Yes, sir. 9 Q Okay. Well, what actually happened was 10 he asked you to prepare a written statement of what 11 happened on board to give to the company's lawyers, 12 right? 13 A He also told me that. 14 Q Okay. And then what you did was you 15 called all the Filipino crew together and held a 16 meeting; right? 17 A Yes, sir. 18 Q And were you the highest ranking engine 19 room officer in that meeting? 20 A Yes, sir. 21 Q And you didn't invite the chief engineer 22 to that meeting? 23 A No, sir. 24 Q Just Filipinos; right?

Page 94		Page 96	
1 A Yes, sir.		1 saw it in the logbook.	
2 Q You didn't invite Paul Tudor, the	electrician, to that meeting?	2 Q So are you telling us here today that	3 when you saw the order in the logbook, you knew
3		4 exactly what it meant?	
4 A No, sir.		5 A Yes, sir.	
5 Q And he was a Romanian, the electrician?		6 Q Okay. Then why did you write on	7 December 9th, "When I read the instruction in the
6 A Yes, sir.		8 logbook, I don't know"?	
7 Q Okay. And then you prepared a four-page	9 The truth of the matter is,		
8 statement for Mr. Christos to give to the lawyers;	10 Mr. Villano, that you didn't understand what the		
9 right?	11 chief told you verbally and you didn't understand		
10 A Yes, sir.	12 what he wrote, and you just made a mistake by		
11 Q And in fact, what you prepared was a	13 ordering the fourth engineer to discharge overboard;		
12 draft of that letter; right?	14 right?		
13 A Yes, sir.	15 A No, sir.		
14 Q As has the Government ever shown you a	16 Q So then why did you write, on		
15 copy of that draft?	17 December 9th, you didn't know what the written order		
16 A Just the end part of it, sir.	18 meant?		
17 Q Okay. Did you ever give the draft to the	19 A Could you repeat that. What do you mean?		
18 Government?	20 Q So then why did you write, on		
19 A No, sir.	21 December 9th, 2005, when the Coast Guard asked you to		
20 Q And you didn't give the draft to	22 write down a truthful summary of what happened on		
21 Mr. Christos either, did you?	23 board, you wrote, "When I read the instruction, I		
22 A The draft, no.	24 don't know."		
23 Q So it's fair to say that the draft of			
24 that statement no longer exists?			
Page 95		Page 97	
1 A Only the rough draft was not given, but	2 the actual draft was given to Christos.	1 A Perhaps I was just not able to fully	2 explain it in that note.
3 Q Okay. What did you do with the rough	4 draft? You threw it out; right?	3 Q Well, are you guessing?	4 A No.
5 A Yes, sir.	6 Q And when you wrote that rough draft, you	5 Q Mr. Villano, take a look at your	6 statement. It's right in front of you.
7 didn't keep a copy for yourself?	8 A Yes, sir.	7 You wrote, "When I read the	8 instruction in logbook, I don't know."
9 Q When you got on board the ship, it was	10 only a matter of days until when the chief engineer	9 Do you see that, towards the bottom	10 of the page?
11 spoke to you about pumping out the engine room bilge	12 wells; right?	11 A What I meant by that was --	12 Q Well, Mr. Villano, I'm not asking you
13 A Yes, sir.	14 out the engine room bilges; correct?	13 what you meant. That's not what you wrote. What you	14 wrote was you didn't know.
15 Q And what he told you to do was to pump	16 A And that's why I'm telling you that I was	15	16 not able to make a detailed explanation here.
16 out the engine room bilges; correct?	17 Q Why not?	17	
17 Q Now, he never used the word "overboard?"	18 A Because at that time, I was trying to do	18	
18 A Verbally he told me that.	19 a shortcut, and that's all I could think of. I was	19	
19 Q Okay. Now, if I'm asking this for the	20 afraid of what was happening.	20	
20 second time please, forgive me. What happened first	21 Q So when the Coast Guard interviewed you	21	
21 he wrote the order or he told you the order?	22 and asked you to write a statement of a truthful and	22	
22 A He first told me verbally.	23 accurate summary of the events that took place on	23	
23 Q First told you verbally?	24 board, you were taking a shortcut?	24	
24 A Yes, because then when he came down, I			

26 (Pages 98 to 101)

Page 98	Page 100
1 A That's not the way it is, not really. 2 Q So this statement is inaccurate; right? 3 A That is what is the truth. 4 Q So the truth is, you ordered an overboard 5 discharge one time; and that was after you read an 6 order that you didn't understand and you went and 7 talked to Roberto, the oiler, same guy you talked to 8 at lunch today?	1 Q Okay. So if what you wrote there is 2 inconsistent with what you said here today, what's 3 the jury supposed to believe? 4 MR. KOTILA: Objection. Objection; 5 calls for speculation. 6 BY MR. CHALOS: 7 Q We can agree in December your 8 recollection was a lot fresher than it is today; 9 right?
9 A I really don't understand what you're 10 telling me. 11 Q Mr. Villano, you told me you speak 12 English. My question is in basic English, you have 13 the assistance of an interpreter, and you don't 14 understand? 15 A You're getting me confused with all your 16 questions. 17 Q Were you confused earlier today when 18 Mr. Kotila was asking you questions?	10 A Yes, sir. 11 Q Mr. Villano, you know that some of your 12 crew mates made an application to the Court and 13 signed declarations; right? 14 A Yes, sir. 15 Q And you didn't do that? 16 A Declaration of what? 17 Q Meaning you didn't participate in a 18 petition to go home. 19 A Yes, sir. 20 Q Yes, sir, you agree, you didn't 21 participate? 22 A Yes, sir. 23 Q And the reason why you didn't participate 24 was because you're scared of what the Government
1 A No. 2 Q Of course not. Because you have a deal 3 with the Government; right? 4 A No. 5 Q You don't have a deal with the 6 Government?	Page 99 1 could do to you? 2 MR. KOTILA: Objection. I'm going 3 to object. This is beyond the scope of my direct 4 examination. It's totally irrelevant. 5 BY MR. CHALOS: 6 Q That's the truth, though, Mr. Villano, 7 isn't it? 8 A No, it's not. 9 Q It's not the truth. Okay. 10 Then why didn't you join in that 11 application to the Court? 12 MR. KOTILA: Continued objection. 13 THE WITNESS: I just wanted to wait 14 until it formally ends. 15 BY MR. CHALOS: 16 Q Okay. Mr. Villano, in all the training 17 you had before you got on board the Irene E.M. about 18 MARPOL and the protection of the environment, you 19 also learned, sometime before you got on board the 20 ship, that if you make a report to the U.S. 21 authorities about a MARPOL violation, that sometimes 22 the Government gives reward money; right? 23 A That I don't know about. I haven't heard 24 about that.

Edgar Villano

27 (Pages 102 to 105)

Page 102	Page 104
<p>1 Q Mr. Villano, we met in your lawyer's 2 office last week.</p> <p>3 A Yes, sir.</p> <p>4 Q And you remember we talked about that?</p> <p>5 A Yes, sir.</p> <p>6 Q And you told me that you had learned 7 about it.</p> <p>8 A I just heard about that, I said to you.</p> <p>9 Q So then the fact is, as you sit here 10 today, you know about the fact, in certain 11 circumstances, the Government gives reward money if 12 you report a MARPOL violation?</p> <p>13 A Yes, sir.</p> <p>14 Q Thank you.</p> <p>15 Now, you said that the chief 16 engineer told you to use a magic pipe; right?</p> <p>17 A Yes, sir.</p> <p>18 Q Now, you knew about a magic pipe long 19 before you even got on board this ship.</p> <p>20 A I just saw it.</p> <p>21 Q Okay. So you've seen a magic pipe on 22 other ships you worked on; right?</p> <p>23 A Yes, sir.</p> <p>24 Q And you've seen an oiler on another ship</p>	<p>1 Fifth Amendment privilege?</p> <p>2 MR. TWERSKY: He's asking if you're 3 going to follow the advice of your lawyer and not 4 answer that question.</p> <p>5 THE WITNESS: Yes, sir.</p> <p>6 BY MR. CHALOS:</p> <p>7 Q Okay. Now, just a few more questions, 8 Mr. Villano.</p> <p>9 You never did change your story, 10 did you? Meaning that after Christos asked you to 11 change your story and before he told you to tell the 12 truth, you never changed your story, did you?</p> <p>13 A Yes, sir.</p> <p>14 Q Okay. And when you actually spoke to 15 Mr. Christos for the last time, what he told you to 16 do was tell the truth; right?</p> <p>17 A Yes, sir.</p> <p>18 Q And that was the very same thing that 19 this gentleman named Mr. Madias told you the first 20 time you met with him?</p> <p>21 A Yes, sir.</p> <p>22 MR. CHALOS: Okay. I'll look 23 through my notes, and in the interest of time, I'll 24 pass the witness to Mr. Woodward.</p>
Page 103	Page 105
<p>1 use a magic pipe; right?</p> <p>2 A Yes, sir.</p> <p>3 Q Now, on that ship that you saw this, that 4 was a different ship than the Irene; it was a 5 completely different ship that you talked about.</p> <p>6 A Yes, sir.</p> <p>7 Q That was owned by a different owning 8 company?</p> <p>9 A Yes, sir.</p> <p>10 Q Managed by a different manager?</p> <p>11 A Yes, sir.</p> <p>12 Q With a different captain?</p> <p>13 A Yes, sir.</p> <p>14 Q And a different chief engineer?</p> <p>15 A Yes, sir.</p> <p>16 Q And in fact, Mr. Villano, that was your 17 practice before coming on board the Irene, to use 18 magic pipes; right?</p> <p>19 MR. TWERSKY: I want to instruct 20 the witness not to answer the question. I'm going to 21 instruct him to assert his Fifth Amendment privilege 22 against self-incrimination as to that question.</p> <p>23 BY MR. CHALOS:</p> <p>24 Q Mr. Villano, are you going to invoke your</p>	<p>1 MR. WOODWARD: Go off the record a 2 minute.</p> <p>3 THE VIDEOGRAPHER: Off the record 4 at 4:18.</p> <p>5 (Brief recess.)</p> <p>6 THE VIDEOGRAPHER: We are on the 7 record at 4:24.</p> <p>8 BY MR. CHALOS:</p> <p>9 Q Mr. Villano, I just have one or two final 10 questions.</p> <p>11 Earlier today Mr. Kotila asked you 12 about taking some saltwater on to put in the bilge 13 tank and some freshwater for the sludge tank. Do you 14 remember that?</p> <p>15 A Yes.</p> <p>16 Q You can't tell us, can you, the latitude 17 and longitude the ship was at when you did it, can 18 you?</p> <p>19 A Yes, sir.</p> <p>20 Q When you say "yes, sir," you agree that 21 it's a correct statement that you don't know where 22 the ship was?</p> <p>23 A Yes, sir.</p> <p>24 MR. CHALOS: Thank you. Nothing</p>

28 (Pages 106 to 109)

Page 106	Page 108
1 further.	1 Q You're sure it wasn't in the forward part
2 CROSS-EXAMINATION	2 of the main engine?
3 BY MR. WOODWARD:	3 A I'm not sure, sir.
4 Q Mr. Villano, my name is Carl Woodward, 5 and I represent Chief Engineer Adrien Dragomir.	4 Q What time of day was the conversation?
6 I've never seen you before and	5 A I don't remember any more, sir.
7 you've never seen me; isn't that correct? Before	6 Q And the conversation was just between you
8 today.	7 and it was -- and Mr. Dragomir; right?
9 A From what I recollect, you were one of	8 A Yes, sir.
10 the persons that boarded the ship.	9 Q And at that time, isn't it a fact that
11 Q I boarded the ship? All right. What day	10 Mr. Dragomir told you to pump out the bilges?
12 did I board the ship?	11 A Yes, sir.
13 A I believe that we were in Camden.	12 Q And isn't it a fact that you asked him
14 Q In Camden. And you think I came on board	13 how to do it?
15 the ship in Camden?	14 A Yes, sir.
16 A I'm not sure, but --	15 Q And he told you to go talk to Roberto;
17 Q Did I give you my card?	16 isn't that correct?
18 A No, sir.	17 A Yes, sir.
19 Q Who did I represent?	18 Q Now, the next day, did you have a
20 A Chief engineer.	19 conversation with the chief engineer about pumping
21 Q And you think I was on the ship in	20 overboard?
22 Camden?	21 A I don't remember anymore.
23 A I just think you may have been.	22 Q Didn't you go to the chief engineer and
24 Q But you're not sure, are you?	23 tell him that you'd pumped overboard?
	24 A From what I can remember, he was the one
Page 107	Page 109
1 A Yes, sir.	1 that was asking me.
2 Q You agree with me that you're not sure?	2 Q Isn't it a fact that you told him that
3 A Yes, sir.	3 you pumped overboard?
4 Q All right. Now, I'm going to direct your	4 A Yes, I told him that.
5 attention to the logbook which had the writing from	5 Q And didn't he ask you, "Why didn't you
6 the chief engineer in it. Do you have that? Do you	6 pump into the bilge tank?"
7 understand that?	7 A No.
8 A Yes, sir.	8 Q You sure about that?
9 Q All right. And if I'm not mistaken, you	9 A I'm sure.
10 had previously testified that the exact words that	10 Q Didn't he say to you, "Why didn't you use
11 were written were, quote, out engine room bilges,	11 the separator," or something like that?
12 close quote?	12 A No.
13 A Yes, sir.	13 Q Didn't he order you to dismantle
14 Q That is correct?	14 everything at that time so it couldn't be used again,
15 A Yes, sir.	15 including the magic hose?
16 Q Now, did you see that writing before or	16 A No.
17 after you spoke with the chief engineer about pumping	17 Q Do you know that the oily water separator
18 out engine room bilges?	18 could be used manually?
19 A After I had spoken to him.	19 A Yes, sir.
20 Q All right. When you spoke with the chief	20 Q Did you ever try to use it manually?
21 engineer, the conversation -- where did the	21 A Yes, sir.
22 conversation take place?	22 Q Did you suggest to the chief engineer
23 A From what I remember, it was at the mess	23 that you should use it manually?
24 hall, sir.	24 A No.

Page 110	Page 112
<p>1 Q So you never suggested that to him?</p> <p>2 A Yes, sir.</p> <p>3 Q You never told him that the crew pumped</p> <p>4 out the second time; isn't that right?</p> <p>5 A I told him.</p> <p>6 Q Or any other time?</p> <p>7 A I told him.</p> <p>8 Q Every single time?</p> <p>9 A Not all of it.</p> <p>10 Q How many times?</p> <p>11 A I don't remember, sir.</p> <p>12 Q Every day? Every watch?</p> <p>13 A I could not remember.</p> <p>14 Q Every watch?</p> <p>15 A I don't remember.</p> <p>16 Q Who did the pump-outs?</p> <p>17 A The fourth engineer.</p> <p>18 Q Always the fourth engineer?</p> <p>19 A Yes.</p> <p>20 Q Only the fourth engineer?</p> <p>21 A The third after him.</p> <p>22 Q Oh, so the fourth engineer and the third</p> <p>23 engineer?</p> <p>24 A Yes, sir.</p>	<p>1 A From what I know, sir.</p> <p>2 Q That's true; right?</p> <p>3 A I really don't know, sir.</p> <p>4 Q Well, you could be punished; right?</p> <p>5 A That's possible, sir.</p> <p>6 Q So it's important that somebody else be</p> <p>7 responsible for what happened here; isn't that right?</p> <p>8 A Yes, sir.</p> <p>9 Q In the engine room, is there a blackboard</p> <p>10 or a whiteboard that crew members can write on?</p> <p>11 A There is a blackboard, sir.</p> <p>12 Q All right. And oilers would take</p> <p>13 soundings and periodically write the soundings on</p> <p>14 those blackboards; right?</p> <p>15 A I didn't notice.</p> <p>16 Q Did you ever see anything written on the</p> <p>17 blackboard?</p> <p>18 A Yes, sir.</p> <p>19 Q What did you see written?</p> <p>20 A Sometimes it's a job order, sir.</p> <p>21 Q Okay. And sometimes they're soundings;</p> <p>22 right?</p> <p>23 A I don't remember if there were any.</p> <p>24 Q Now, you said that you helped Roberto</p>
Page 111	Page 113
<p>1 Q The logbook, when was the last time you</p> <p>2 saw it?</p> <p>3 A I don't remember anymore.</p> <p>4 Q I want to go back to a conversation that</p> <p>5 you had with the chief the first time you say you</p> <p>6 pumped overboard and you told him that you had done</p> <p>7 so.</p> <p>8 Where did that conversation take</p> <p>9 place? Strike that.</p> <p>10 Yeah, where did that conversation</p> <p>11 take place?</p> <p>12 A As I told you, from what I remember, it</p> <p>13 was at the mess hall.</p> <p>14 Q It was in the workshop, wasn't it?</p> <p>15 A That I don't remember.</p> <p>16 Q And you and he were the only two who were</p> <p>17 present; isn't that right?</p> <p>18 A Yes, sir.</p> <p>19 Q If you misunderstood his order and pumped</p> <p>20 out illegally, it could go bad for you, couldn't it?</p> <p>21 A What do you mean?</p> <p>22 Q What do I mean? Well, if he did not tell</p> <p>23 you to pump out overboard and you misunderstood his</p> <p>24 order, you could lose your license; right?</p>	<p>1 hook up the magic hose. Do you recall that</p> <p>2 testimony?</p> <p>3 A Yes, sir.</p> <p>4 Q So you were, what, three days out from</p> <p>5 Brazil?</p> <p>6 A Two to three days, about that time.</p> <p>7 Q Two to three days out from Brazil?</p> <p>8 A Yes.</p> <p>9 Q Okay. So there was nothing hooked up at</p> <p>10 that point, was there?</p> <p>11 A No, sir.</p> <p>12 Q The chief engineer didn't speak very good</p> <p>13 English, did he?</p> <p>14 A That, I couldn't tell you.</p> <p>15 Q Well, you had conversations with him,</p> <p>16 didn't you?</p> <p>17 A Yes, sir.</p> <p>18 Q His English wasn't very good, was it?</p> <p>19 A From what I know, I understood him.</p> <p>20 Q You thought you understood him; right?</p> <p>21 A Yes, sir.</p> <p>22 Q Do you have any relatives in the United</p> <p>23 States?</p> <p>24 A Yes, sir.</p>

30 (Pages 114 to 117)

Page 114	Page 116
1 Q Where are they located? 2 A From what I know, they're in Seattle. 3 Q Do you have any friends here in the 4 United States? 5 A Not really, no. 6 Q You'd like to stay in the United States, 7 wouldn't you? 8 A That I don't desire. 9 MR. WOODWARD: Off the record for a 10 minute. 11 THE VIDEOGRAPHER: Off the record 12 at 4:39. 13 (Discussion off the record.) 14 THE VIDEOGRAPHER: We are on the 15 record at 4:41. 16 BY MR. WOODWARD: 17 Q The chief engineer never asked you to 18 change your story or lie in this matter, did he? 19 A Yes, sir. 20 Q Now, in this statement that you wrote, 21 the four-page statement that you said you drafted, 22 was any of it written by somebody else? 23 A Yes, sir. 24 Q Who wrote it?	1 about directly, anything in here about the other crew 2 where you were not present, you don't know whether 3 those are true or not, do you? 4 A Like, for example, what? 5 Q Did you know Port State Control asked 6 Roberto -- or asked about the flanges and Roberto 7 replied about the flanges. You weren't present for 8 that, were you? 9 A Yes, sir. 10 Q You were not present? 11 A Yes, sir. 12 Q You agree with me that you were not 13 present? 14 A Yes, sir. 15 Q That's an example of what you can't say 16 is true or not; isn't that right? 17 A Not all of it, sir. 18 Q And in fact, the conversations that you 19 wrote down between yourself and the chief engineer 20 and the electrician were not known by anybody else 21 who signed this statement; isn't that true? 22 A All I can tell you is they read it before 23 they signed it. 24 Q But that didn't mean that they knew
Page 115	Page 117
1 A Fourth engineer, sir. 2 Q And why did he write part of it? 3 A Because I saw that his penmanship was 4 better than mine. 5 Q Okay. But with respect to the statement, 6 the part that you wrote that was in your own 7 handwriting, at least part of it recounts your 8 conversation with the chief engineer; correct? 9 A Yes, sir. 10 Q But those things that involved the second 11 engineer -- excuse me -- that involved the third or 12 the fourth engineer you didn't know about, did you? 13 A Yes, sir. 14 Q Meaning you agree with me; correct? 15 A Yes, sir. 16 Q So this statement does not reflect -- 17 strike that. 18 You can't say that everything in 19 this statement is true? 20 A I let them read that, sir, before they 21 signed it. 22 Q That's not what I said -- that's not what 23 I asked you. 24 Other than the things that you know	1 whether or not the statements were true, because they 2 weren't present? 3 A All I can tell you, sir, is I did not 4 force them to sign this. They read it and they 5 signed it. 6 Q That's not what I'm asking. I'm asking 7 whether they were present when you had conversations 8 with the chief engineer. 9 A No, they're not. 10 Q They were not; right? 11 A Yes. 12 Q So they wouldn't know whether the 13 conversation that you had written down between 14 yourself and the chief engineer was true or not, 15 would they? 16 A Yes, sir. 17 MR. WOODWARD: Okay. No further 18 questions. 19 REDIRECT EXAMINATION 20 BY MR. KOTILA: 21 Q Mr. Villano, I just have a couple of 22 follow-up. 23 One of the last few things you told 24 Mr. Chalos was, I believe the last time before you

Edgar Villano

31 (Pages 118 to 121)

Page 118	Page 120
<p>1 got off the ship you spoke with Christos, and 2 Christos told you to tell the truth. 3 A Yes, sir. 4 Q But you also agreed when Mr. Chalos said 5 Madias said to tell the truth the first time you met 6 him. 7 A Yes, sir. 8 Q So the first time you met Madias, he told 9 you that? 10 A Yes, sir. 11 Q And when did he start telling you to 12 change your story? 13 A The next day, sir. 14 Q And how many times after that? 15 A I don't remember exactly anymore, sir. 16 Q But there were other times? 17 MR. CHALOS: Objection. 18 THE WITNESS: Yes, sir. 19 BY MR. KOTILA: 20 Q Now, you also told Mr. Chalos you had a 21 usual practice to transfer bilge wells to the bilge 22 holding tank. 23 What happened to the oily waste in 24 the bilge holding tank?</p>	<p>1 tell the truth? 2 A Yes, sir. 3 Q And you told them that you would do that; 4 right? 5 A Yes, sir. 6 Q Yet the items that appear in that 7 December 9th statement are inconsistent with what you 8 said today. 9 A Because I was afraid. That's it. 10 Q You were also afraid, Mr. Villano, when 11 you went to the Grand Jury on January 12th, weren't 12 you? 13 A That's a normal occurrence, sir. 14 Q So the answer to my question is yes, you 15 were afraid? 16 A Not totally, sir. 17 Q But a little bit? 18 A Yes, sir. 19 Q And they asked you, on the 12th of 20 January, "After you arrived in the United States and 21 the Coast Guard gets on the ship, did anyone tell you 22 to lie to the Coast Guard?" 23 Your answer was, "When we arrived 24 here?"</p>
<p>1 A It's there sitting. 2 Q Okay. Well, tell me, when would 3 materials go in the bilge holding tank and when would 4 materials go overboard? 5 A When the bilge well readings is high, 6 when we had not arrived on shore, then we let it 7 overboard. 8 Q Now, Mr. Chalos keeps referring to a deal 9 with the Government; correct? 10 A Yes, sir. 11 Q You're here to tell the truth; correct? 12 MR. CHALOS: Objection. 13 THE WITNESS: Yes, sir. 14 BY MR. KOTILA: 15 Q Just like it says in the document 16 Mr. Chalos put before you, the honest truth? 17 MR. CHALOS: Objection. 18 THE WITNESS: Yes, sir. 19 MR. KOTILA: I have no further 20 questions. 21 RECROSS-EXAMINATION 22 BY MR. CHALOS: 23 Q Mr. Villano, that's what the Coast Guard 24 told you on December 9th; right? They asked you to</p>	<p>1 The question was, "Yes." And then 2 you go through and you tell -- give him an answer. 3 And you never said anything about 4 this guy Madias telling you to lie; right? 5 A Yes, sir. 6 Q Okay. And then in February, you tell a 7 different story to the Grand Jury; right? 8 A Yes, sir. 9 Q And yet today you tell yet a third story, 10 or a fourth story, if you look at the December 9th 11 one-page letter you wrote; right? 12 A Yes, sir. 13 Q And a fifth story, if you look at your 14 December 11th statement you prepared for 15 Mr. Christos. 16 A Yes, sir. 17 Q So there's five different stories of what 18 happened; right? 19 A That's not all different, sir. 20 Q Okay. Well, you told Mr. Kotila earlier 21 today about something that you thought the chief 22 engineer told you to do with filling the tanks. Do 23 you remember that? 24 MR. KOTILA: Objection. This is</p>

32 (Pages 122 to 125)

Page 122	Page 124
1 beyond the scope of my redirect. 2 MR. CHALOS: Well, it goes to your 3 question about the veracity and accuracy of his 4 testimony. 5 MR. KOTILA: Beyond the scope of my 6 redirection. Objection. 7 BY MR. CHALOS: 8 Q Well, Mr. Villano, you told Mr. Kotila 9 earlier that you filled the bilge tank with seawater? 10 MR. KOTILA: Again, objection. 11 Beyond the scope of the redirect. Plus, this is 12 asked and answered. 13 BY MR. CHALOS: 14 Q And the sludge tank with freshwater; 15 right? 16 A Yes, sir. 17 Q That's not what you wrote on 18 December 11th, 2005, is it? 19 A What I wrote then is correct. 20 Q Okay. What you wrote then was, "Early 21 morning at second engineer watch, they filled bilge 22 tank and sludge tank with seawater." 23 That's different than what you told 24 Mr. Kotila today; right?	1 was the date? 2 BY MR. CHALOS: 3 Q January 12th, 2006, Mr. Falgowski said to 4 you in front of the Grand Jury, "But you also 5 understand and it's fair to say that I told you 6 you're not a subject and you're not a target of this 7 investigation?" 8 Your answer: "Yeah." 9 The question: "All right. That 10 the Coast Guard has no intentions of prosecuting you. 11 Do you understand that?" 12 Your answer: "Yeah, I understand." 13 Question: But in return, what you 14 have to do is you have to give us your 15 cooperation; correct? 16 Answer: Yes." 17 That was the deal you had with the 18 Government; right? 19 A Yes, sir. 20 MR. CHALOS: Nothing further. 21 RECROSS-EXAMINATION 22 BY MR. WOODWARD: 23 Q Mr. Villano, are you scared today? 24 A No, sir.
Page 123	Page 125
1 A That is the truth, what I said. 2 Q So the truth is what? The sludge tank 3 was filled with -- 4 A Seawater in the bilge tank, freshwater in 5 the sludge tank. 6 Q But that's not what you wrote on 7 December 11th, 2005; right? Do you agree with me? 8 A From what I remember, what I told you is 9 correct. 10 Q Okay. Now, about this deal you had with 11 the Government, when you went in front of the Grand 12 Jury the first time, there was another prosecutor 13 there named Mr. Falgowski; right? 14 A Yes, sir. 15 MR. KOTILA: Objection; again, 16 asked and answered, this whole area. 17 BY MR. CHALOS: 18 Q And Mr. Falgowski told you and all the 19 other people in the room what the deal was; right? 20 Do you remember that? 21 A No. 22 Q Okay I'll refresh your recollection. On 23 January 12th, 2006 -- 24 THE INTERPRETER: I'm sorry. What	1 Q So you were scared on the 9th of 2 December, and so you lied on the 9th of December; is 3 that right? 4 A Yes, sir. 5 Q And so it's okay to lie if you're scared? 6 A That I could not assure you, sir. 7 Q Well, let me ask you this, sir. 8 On the 9th of December, you said 9 there was only one pump-out. Today you said there 10 were more. 11 Were you lying then or are you 12 lying now? 13 A At this time, I'm not. 14 MR. WOODWARD: No further 15 questions. 16 FURTHER REDIRECT EXAMINATION 17 BY MR. KOTILA: 18 Q Let me just finish up. 19 When you were in the Grand Jury on 20 January 12th, where Mr. Chalos left off, he read the 21 question "But in return" -- this is Page 4 -- "But in 22 return, what you have to do is to give us your 23 cooperation; correct?" 24 A Yes.

Edgar Villano

33 (Pages 126 to 129)

	Page 126		Page 128
1	Q And your answer was: "Yes."	1	EXHIBITS MARKED FOR IDENTIFICATION
2	But the next question: "And your	2	CSME DESCRIPTION PAGE
3	cooperation has to be total and you have to tell us	3	17 Employment documents of 46 Mr. Villano
4	the truth."	4	
5	And you answered: "Yeah."	18	Photocopy of Mr. Villano's 46
6	Next question: "You have to be	5	seaman's book and passport
7	honest with us."	6	Licenses and acknowledgements of 46 Mr. Villano
8	"Answer: I know."	7	
9	You gave those answers to those	20	Certificates of completion of 46 training courses
10	questions; correct?	8	Physical and mental testing 46 results of Mr. Villano
11	A Yes.	9	
12	MR. KOTILA: All right. No further	21	Handwritten document of 46 Mr. Villano dated 12-9-05
13	questions.	10	
14	FURTHER RECROSS-EXAMINATION	11	
15	BY MR. CHALOS:	12	
16	Q Now, Mr. Villano last question.	13	
17	When you made that deal with	14	
18	Mr. Falgowski and he asked for you to tell the truth,	15	EXHIBITS MOVED INTO EVIDENCE
19	that wasn't a different truth than the truth that	16	CSMR Exhibit No. PAGE
20	Mr. McKnight asked you to tell, is it?	17	17 49
21	A It's the same.	18	18 50
22	Q So if you told the truth when	19	19 53
23	Mr. McKnight asked you, the story should be the same	20	20 56
24	when Mr. Kotila asked you; right?	21	21 62
		22	
		23	
		24	
	Page 127		Page 129
1	A Yes, sir.	1	CERTIFICATE OF SHORTHAND REPORTER
2	MR. CHALOS: Okay. Thank you.	2	
3	Nothing further.	3	I, Gail Inghram Verbano, CSR, RMR,
4	MR. KOTILA: Thank you.	4	the officer before whom the foregoing proceedings
5	THE VIDEOGRAPHER: We are off the	5	were taken, do hereby certify that the foregoing
6	record at 5 o'clock.	6	transcript is a true and correct record of the
7	(Signature having been waived, the	7	proceedings; that said proceedings were taken by me
8	deposition of EDGAR VILLANO was	8	stenographically and thereafter reduced to
9	concluded at 5:00 p.m.)	9	typewriting under my supervision; and that I am
10		10	neither counsel for, related to, nor employed by any
11	INDEX	11	of the parties to this case and have no interest,
12	WITNESS: PAGE	12	financial or otherwise, in its outcome.
13	EDGAR VILLANO	13	
14	Mr. Kotila	14	
15	Mr. Chalos	15	
16	Mr. Woodward	16	
17	Mr. Kotila	17	Gail Inghram Verbano, CSR, RMR CSR No. 8635
18	Mr. Chalos	18	Certification No.: 220 (Expires 1-31-2008)
19	Mr. Woodward	19	
20	Mr. Kotila	20	
21	Mr. Chalos	21	
22		22	
23		23	
24		24	